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AND

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"Δεῖ καὶ τὰς ἄλλας ἐπισκέψασθαι πολιτείας . . . ἵνα τό τ'ὀρθῶς ἔχον ὀφθῇ καὶ τὸ χρήσιμον."—Arist. *Pol.* II. 1.

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CONTENTS OF No. XXXV.

PAGES

1. The Right Hon. Sir R. B. Finlay, G.C.M.G., K.C., M.P.: Portrait and Sketch 1–4
   Contributed by The Hon. Mr. Justice Rowlatt.

2. The International Joint Commission 5-12
   Contributed by Lawrence J. Burpee, Esq., Canadian Secretary of the International Joint Commission.

3. Labour Legislation in the United States . . . 13–23
   Contributed by Samuel Rosenbaum, Esq., of the Pennsylvania Bar.

4. Some Notes on the Constitution and Legislation of the Federated Malay States 24–29
   Contributed by J. R. Innes, Esq., Barrister-at-Law, Judicial Commissioner, Federated Malay States.

5. The Income Taxes of the Self-governing Dominions . 30–53
   Contributed by S. E. Minnis, Esq.

6. Notes on Cases:
   - England 54–57
   - Australia 57–60
   - India 60–61
   - South Africa 61–66

7. Notes:
   - The Malta Prize Court 67–71
   - The Library of the Royal Colonial Institute . . . 71
   - A World Court 71–72
   - Major A. J. N. Tremearne 72
   - Tongan Islands Protectorate 72–73

PAGES

NOTES (*continued*):

The Australian Court of Conciliation and Arbitration . 73
The *Titanic* Case 73–74
Index to American Statutes 74
Mothers' Pension Laws 74–76
Empire Parliamentary Association 76–77
Obituary 77
The Case of Edith Cavell 77–78
The Coming of Age of the Society 78–79
Local Correspondents 79-80

8. REVIEWS:

Ridges, E. W., *Constitutional Law of England*. C. E. BUCKLAND 81–82
Roxburgh, R. F., *The Prisoners of War Information Bureau in London*. G. G. P. 82–83
Phillipson, Coleman, *International Law and the Great War*. E. A. WHITTUCK 83–85
Consolidated Laws of Gibraltar. A. GRAY, C.B., K.C. . 86
Reis, Charles, *The Government of Trinidad*. A. B. KEITH 87–88
Government Aid to Home-owning and Housing of Working People in Foreign Countries. SYDNEY G. TURNER . 88–89
Lefroy, A. H. F., *Leading Cases in Canadian Constitutional Law*. A. B. K. 89–91
Revised Statutes of Manitoba. J. S. HENDERSON . . 91–92
De Becker, J. E., *Commentary on the Commercial Code of Japan*. T. MATHEW 92–93
Russell, E. B., *The Review of American Legislation by the King in Council*. C. E. A. B. 93–94
Periodicals 95–96

[For the Review of Legislation see separate Table of Contents.]

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THE RIGHT HON. SIR R. B. FINLAY, G.C.M.G., K.C., M.P.

[*Contributed by the* HON. MR. JUSTICE ROWLATT.]

THE RIGHT HONOURABLE SIR ROBERT FINLAY, G.C.M.G., K.C., M.P., whose portrait is the frontispiece to this issue, did not in the first instance choose the law as his profession. Born in Edinburgh, he was, like many other successful men, educated at Edinburgh Academy. There he gained, if not one of his highest, possibly one of his most welcome distinctions in becoming "Dux" of that famous school. From the Academy he went to Edinburgh University, and took there the degree of Doctor of Medicine, with a view to practise. In a very short time, however, he changed his mind, entered as a student at the Middle Temple, became a pupil of the late Sir John Day, and was called to the Bar in 1867. At that time Sir John Day was doing a large junior business, with a great number of single-handed briefs, some of which he was often obliged to find a reliable man to hold for him. He soon saw that whatever young Mr. Finlay touched he mastered, and that whatever he mastered he could lucidly expound, and it was not long before the pupil became the right-hand man of the master. Mr. Finlay was a junior till 1882, practising in London, and on the old Home Circuit. In that year he "took silk," and in 1885 entered Parliament as Liberal member for the Inverness Burghs. When the split occurred in the Liberal Party over Mr. Gladstone's first Home Rule Bill, Mr. Finlay followed Lord Hartington, and became a Liberal Unionist. His speech in the House of Commons against the Bill was one of the best and most closely reasoned on his side of the controversy. He had already a high place among practising Queen's Counsel, but at this point he entered the very foremost rank, being employed not only in the Common Law Courts, but in the

Chancery and Probate Divisions, and before the Privy Council and House of Lords.

With the removal first of Sir Horace Davey, and then of Sir John Rigby to the Bench, the heavy cases which they had been used to argue largely fell to Mr. Finlay, who was thus at the very top of the profession when he became Solicitor-General in the Unionist Government of 1895. From that date till the fall of the Unionists in 1905 Sir Robert Finlay (who had succeeded Sir Richard Webster as Attorney-General in 1900) was absent from private practice at the Bar. As Solicitor-General, he took part in the prosecution of Dr. Jameson and his comrades, and, as Attorney-General, represented this country in the Alaska Boundary Arbitration in London in 1903, and in the Venezuelan Claims Arbitration before the Hague Tribunal in the same year. The latter Arbitration was the first case of importance before that tribunal. No less than ten Powers took part in it, and it is further of interest in that it gave rise to the proposals which ultimately resulted in the second Hague Convention of 1907, respecting " the limitation of the employment of force for the recovery of contract debts." In 1905 Sir Robert Finlay found himself once more an unofficial barrister, competing for business in the profession. It might have been thought that, after ten years' absence, private clients would have forgotten him. On the contrary, he stepped at once into the first place. His earliest case in private practice was actually called on in the Privy Council while he was still addressing the Court of Appeal in the Strand as Attorney-General. From that day to the present he has held a supreme position at the Bar of the House of Lords and Privy Council, and has enough business before those two tribunals to occupy fully the most industrious practitioner. As a result, he is now not often seen in the Royal Courts in the Strand, except in cases of exceptional importance. His great reputation among the Colonial lawyers, who follow the proceedings of the Privy Council, led, however, to his being briefed for Canada and Newfoundland in the North Atlantic Coast Fisheries Arbitration at the Hague in 1910. At the request of Sir William Robson, the Attorney-General, who led for Great Britain, Sir Robert Finlay opened the British case. The facts were complicated, and raised interesting questions as to so-called international servitudes, and kindred matters. By common consent, Sir Robert's marshalling of the facts was masterly, and his argu-

ment on the subject of the servitudes notable as well for its learning as for its cogency.

The period during which Sir Robert Finlay was Law Officer of the Crown was very fertile of international questions, and there are probably few, if any, persons living who have as great a knowledge of the principles of International Law as practically applied. It was, however, more especially remarkable for the growth of International Arbitration. The Venezuelan, the Alaskan, and the Newfoundland questions had been solved by it. The Conferences at the Hague had exalted it. A general Treaty of Arbitration between Great Britain and the United States had been under discussion. Of all these developments Sir Robert Finlay had an inside knowledge. When, therefore, in 1902, he became Lord Rector of Edinburgh University, he appropriately chose International Arbitration as the subject of his Rectorial Address. It is interesting now to recall that he pointed out its limitations as well as its uses.

In other directions, too, Sir Robert Finlay's professional duties before the Privy Council have carried him as a practitioner into regions which most English lawyers can enter only as students. He can find his way about in the Roman-Dutch Law. He has had to argue the strange questions to which the various social systems of the East give birth. He is intimately acquainted with the problems that arise, even under the Common Law, where legislative, executive, and judicial power is limited and subdivided under the constitutions of the various Dominions. His latest sphere of activity is in the half-forgotten Law of Prize.

Nothing is more difficult than to analyse the excellences of a great lawyer at the Bar, especially where his distinction lies, as in the case of Sir Robert Finlay, not in the domain of popular advocacy, but in the more esoteric regions of scientific jurisprudence. No one will understand Sir Robert Finlay, however, who does not appreciate the fulness of his mind apart altogether from his legal attainments. It is probably not generally known that he is a ripe and accurate classical scholar, proficient in French and German, able to read *Don Quixote* and the *Inferno* in the originals, and not unacquainted with modern Greek. From this it has resulted that his law has always been scholarly—accurate without technicality, informed but without pedantry.

His reasoning as an advocate derives its power from no art, save the difficult though apparently natural art of perfect directness and lucidity. He has a mind that works without wear and tear. That at the age of seventy-three he can still conduct the largest practice in the heaviest cases, without sign of worry or fatigue, is no mere result of constitutional strength or placid temperament: it is in no small measure due to the easy and ordered process of his intellect. Sir Robert Finlay is the father of the now practising Bar. Of those still in the active pursuit of the profession, he is the senior in standing, the oldest in years, and at the same time the foremost in business. He enjoys in a degree never surpassed the affectionate respect of a profession which is proud of him.

THE INTERNATIONAL JOINT COMMISSION.

[*Contributed by* LAWRENCE J. BURPEE, ESQ., *Canadian Secretary of the International Joint Commission.*]

THE International Joint Commission exists by virtue of the Treaty between Great Britain and the United States, relating to Boundary Waters and questions arising along the boundary between Canada and the United States, signed at Washington, January 11, 1909.

The objects of the Treaty, as set forth in the preamble, are to "prevent disputes regarding the use of boundary waters, and to settle all questions which are now pending between the United States and the Dominion of Canada involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along their common frontier, and to make provision for the adjustment and settlement of all such questions as may hereafter arise."

"Boundary waters" are defined in the Preliminary Article as "the waters from main shore to main shore of the lakes and rivers and connecting waterways, or the portions thereof, along which the international boundary between the United States and the Dominion of Canada passes, including all bays, arms, and inlets thereof, but not including tributary waters which in their natural channels would flow into such lakes, rivers, and waterways, or waters flowing from such lakes, rivers, and waterways, or the waters of rivers flowing across the boundary."

Art. 7 of the Treaty reads as follows:

The High Contracting Parties agree to establish and maintain an International Joint Commission of the United States and Canada composed of six Commissioners, three on the part of the United States, appointed by the President thereof, and three on the part of the United Kingdom, appointed by His Majesty on the recommendation of the Governor in Council of the Dominion of Canada.

Arts. 3 and 4 read as follows:

ARTICLE 3

It is agreed that, in addition to the uses, obstructions, and diversions heretofore permitted or hereafter provided for by special agreement between the Parties hereto, no further or other uses or obstructions or diversions, whether temporary or permanent, of boundary waters on either side of the line, affecting the natural level or flow of boundary waters on the other side of the line, shall be made except by authority of the United States or the Dominion of Canada within their respective jurisdictions and with the approval, as hereinafter provided, of a Joint Commission, to be known as the International Joint Commission.

The foregoing provisions are not intended to limit or interfere with the existing rights of the Government of the United States on the one side and the Government of the Dominion of Canada on the other, to undertake and carry on governmental works in boundary waters for the deepening of channels, the construction of breakwaters, the improvement of harbours, and other governmental works for the benefit of commerce and navigation, provided that such works are wholly on its own side of the line and do not materially affect the level or flow of the boundary waters on the other, nor are such provisions intended to interfere with the ordinary use of such waters for domestic and sanitary purposes.

ARTICLE 4

The High Contracting Parties agree that, except in cases provided for by special agreement between them, they will not permit the construction or maintenance on their respective sides of the boundary of any remedial or protective works or any dams or other obstructions in waters flowing from boundary waters or in waters at a lower level than the boundary in rivers flowing across the boundary, the effect of which is to raise the natural level of waters on the other side of the boundary unless the construction or maintenance thereof is approved by the aforesaid International Joint Commission.

It is further agreed that the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other.

In determining such cases the Commission, under the terms of the Treaty, is governed by certain rules or principles adopted by the High Contracting Parties, who first agree that they "shall have, each on its own side of the boundary, equal and similar rights in the use of the waters hereinbefore defined as boundary waters."

Uses of Boundary Waters.—The following order of precedence is

then laid down, to govern the uses of boundary waters: "and no use shall be permitted which tends materially to conflict with or restrain any other use which is given preference over it in this order of precedence:

"(1) uses for domestic and sanitary purposes;

"(2) uses for navigation, including the service of canals for the purposes of navigation;

"(3) uses for power and for irrigation purposes."

Uses of boundary waters existing at the date of the Treaty are not affected by the above provisions.

The Commission may suspend the principle of equal diversion in cases of temporary diversions, where local conditions justify such action, and may make its approval conditional upon the construction of remedial or protective works, and the protection and indemnity against injury of interests on either side of the boundary. Where the natural level of waters is raised on either side by the construction or maintenance of remedial or protective works, the Commission must provide for the protection and indemnity of interests injured thereby.

Other clauses of the Treaty provide for the machinery, procedure, legal powers, and decisions of the Commission.

International Arbitration.—Arts. 9 and 10 are peculiarly interesting, the former opening a broad field of usefulness to the Commission in the investigation of vexed questions along the common frontier; and the latter practically constituting the Commission a miniature Hague Tribunal for the final settlement of any question of difference between Canada and the United States.

Art. 9 is as follows:

Article 9

The High Contracting Parties further agree that any other questions or matters of difference arising between them involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along the common frontier between the United States and the Dominion of Canada, shall be referred from time to time to the International Joint Commission for examination and report, whenever either the Government of the United States or the Government of the Dominion of Canada shall request that such questions or matters of difference be so referred.

The International Joint Commission is authorised in each case so

referred to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

Such reports of the Commission shall not be regarded as decisions of the questions or matters so submitted either on the facts or the law, and shall in no way have the character of an arbitral award.

The Commission shall make a joint report to both Governments in all cases in which all or a majority of the Commissioners agree, and in case of disagreement the minority may make a joint report to both Governments, or separate reports to their respective Governments.

In case the Commission is evenly divided upon any question or matter referred to it for report, separate reports shall be made by the Commissioners on each side to their own Government.

Art. 10 is as follows:

ARTICLE 10

Any questions or matters of difference arising between the High Contracting Parties involving the rights, obligations, or interests of the United States or of the Dominion of Canada either in relation to each other or to their respective inhabitants, may be referred for decision to the International Joint Commission by the consent of the two Parties, it being understood that on the part of the United States any such action will be by and with the advice and consent of the Senate, and on the part of His Majesty's Government with the consent of the Governor-General in Council. In each case so referred, the said Commission is authorised to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

A majority of the said Commission shall have power to render a decision or finding upon any of the questions or matters so referred.

If the said Commission is equally divided or otherwise unable to render a decision or finding as to any questions or matters so referred, it shall be the duty of the Commissioners to make a joint report to both Governments, or separate reports to their respective Governments, showing the different conclusions arrived at with regard to the matters or questions so referred, which questions or matters shall thereupon be referred for decision by the High Contracting Parties to an umpire chosen in accordance with the procedure prescribed in the fourth, fifth, and sixth paragraphs of Art. 45 of the Hague Convention for the pacific settlement of

international disputes, dated October 18, 1907. Such umpire shall have power to render a final decision with respect to those matters and questions so referred on which the Commission failed to agree.

At the organisation meeting of the Commission in Washington, January 10, 1912, Mr. James A. Tawney, Chairman of the United States Section, said:

The Treaty begins the twentieth century with a Commission to which may be referred for inquiry and adjudication all possible questions of disagreement between the Dominion of Canada and the United States, their Provinces, our States and their respective peoples. This is an effort to write into international law the sentiment of the peoples of two great countries.

The work of promoting closer and more direct relations between the two great peoples on this continent, who have the same language, come from the same race, have the same common fountain of law, the same traditions, and similar institutions of government as well as the same ambitions for the continued success of their respective governments, is in fact the work of blazing the trail for the judicial settlement of all disputes where they occur between any two great nations.

Despite a certain amount of uneasiness caused in Canada by the action of the United States Senate in adding to the Treaty after it had been signed by the respective plenipotentiaries a rider purporting to safeguard certain riparian rights at Sault Ste. Marie, but which was found not to affect the principle of the Treaty, there has been general satisfaction among public men on both sides of the international boundary with the terms of a convention which would have the effect of settling upon broad and equitable lines the many questions of difference which must arise between two countries having such an unusually long common frontier.

Work of the Commission.—Since its organisation the Commission has had before it a number of applications for the approval of works involving the diversion of boundary waters. Sometimes these applications have been made on behalf of United States interests; sometimes on behalf of Canadian companies. They have ranged geographically from the St. Croix River in the extreme east, dividing the Province of New Brunswick from the State of Maine, to the Lake of the Woods in the west. They have embraced such important works as a new water system for the city of Winnipeg, taking its supply from Shoal Lake, a tributary of the Lake of the

Woods; huge water power projects on both sides of the St. Mary River, between Lake Superior and Lake Huron; and various other similar undertakings.

In every case the decision is final under the terms of the Treaty; in every case up to the present time the Commissioners have been unanimous in their decisions; and in every case the settlement has given satisfaction to both Governments and to all the public and private interests concerned. Such a result is not only a tribute to the tact and common sense of the six men who represent the Governments of the United States and Canada on the Commission, but it is an even more striking tribute to the wisdom of those Governments in providing a simple and expeditious means for the settlement of all disputes between the two countries or their inhabitants along the common frontier.

Attention has already been drawn to the provisions of Arts. 9 and 10 of the Treaty. The Governments of Canada and the United States have not had occasion as yet to avail themselves of the latter Article, but in several important matters have taken advantage of Art. 9 to refer to the Commission for investigation and report questions or matters of difference arising along the frontier.

During the past two years the Commission has been engaged upon three important investigations, on behalf of the two Governments. It has sent in its final report on one, and has made very substantial progress with the other two. The Livingstone Channel question, finally reported upon in April 1913, related specifically to the construction of a dam or dyke in the Detroit River, for the protection of the enormous traffic up and down that international stream. Investigation, however, was instrumental in bringing to the front much larger questions, involving development and conservation of the entire system of boundary waters from the head of Lake Superior to the St. Lawrence; and since the Commission made its report, the Governments of both countries have had under consideration a policy for the systematic and harmonious improvement of navigation and other facilities throughout the Great Lakes and connecting waterways, for the mutual benefit of the people on both sides of the boundary.

The second question which the Commission has been investigating relates to the fixing of certain water-levels on the Lake of the Woods and tributary waters, which will best meet the varied and important

interests of navigation, agriculture, fishing, tourist traffic, and power development along these waters, involving communities as far apart as Duluth and Winnipeg, and a total investment of probably $100,000,000. Thoroughly equipped parties of engineers were engaged throughout the seasons of 1913 and 1914 under the direction of the Commission's consulting engineers, Canadian and American, in gathering the data upon which the Commission will base its final report to the two Governments. The engineers have had to cover a great deal of new ground and secure reliable information on a variety of scientific questions, all of which will be brought together in their joint report to the Commission. While the investigation is not yet completed, the Commission has prepared a progress report, and submitted it to the two Governments.

The third investigation, and in many respects the most important that has yet been undertaken by the Commission, involves the question of the pollution of boundary waters between the United States and Canada. The Commission has been asked by the Governments of Canada and the United States to determine the sources and extent of pollution in these waters where it extends across the boundary, and to recommend suitable remedies.

Procedure of the Commission.—The technical side of the investigation has been entrusted to sanitary experts on both sides of the boundary, under whose direction parties were engaged throughout the summer of 1914 at various points from the St. John River in the east to the Lake of the Woods in the west, gathering material for bacteriological tests. The sanitary experts have in this way brought together a great mass of data, which they have put into the form of a joint report to the Commission. On this report the Commission based its own progress report to the two Governments as to the sources and extent of pollution of international waterways. This report has been submitted, and indicates very clearly the gravity of the situation on these international waters, pollution of which is a constant menace to the health of many millions of people on both sides of the boundary line.

The Commission is now taking up the second question, as to the remedies best adapted to each particular locality along the boundary. It will be seen that as the first question referred to the Commission was a chemical and bacteriological one, the solution of the second question rests rather with sanitary engineers.

Some months ago a conference was held in New York, at which the Commission obtained the views of a group of sanitary engineers of international reputation as to the principles to be followed in taking up the second branch of the investigation. Since then a corps of engineers has been put in the field, under the direction of a man of recognised ability and breadth of view. It was expected that before the close of 1915 the Commission would be in a position to present to the Governments of Canada and the United States its final report on the whole matter. With that report before them, the two Governments will be in a position to carry out intelligently and effectively the terms of the Treaty, that "the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other."

The Commission has recently held a hearing in St. Paul, Minnesota, in the matter of the measurement and apportionment of the waters of the St. Mary and Milk Rivers, two streams which cross and recross the international boundary near the foothills of the Rocky Mountains. At this hearing a number of eminent counsel and engineers representing the Governments of the United States and Canada, of Montana, Alberta, and Saskatchewan, of the Canadian Pacific Railway, the Great Northern Railway, and various irrigation associations and other private interests, discussed the terms of Art. 6 of the Treaty, and submitted a mass of engineering and other data bearing upon the carrying out of the terms of that Article. When this has been digested the Commission will be in a position to carry out its duty under the Treaty in dividing the waters of the two rivers between the two countries upon an equitable and workable basis.

It will be seen that the questions with which the International Joint Commission has had to deal are not only intricate and of very great importance to the people on both sides of the boundary line, but that they cover a field extending from the St. John River in the east to the Rocky Mountains in the west.

LABOUR LEGISLATION IN THE UNITED STATES.

[*Contributed by* SAMUEL ROSENBAUM, ESQ., *of the Pennsylvania Bar.*]

LABOUR legislation in the United States continues to grow apace. The compilation of *Labour Laws of the United States* for the year 1914, issued by the Bureau of Labour Statistics of the Federal Department of Labour,[1] exceeds by a thousand pages its predecessor, which was issued in 1907. The edition is in two volumes. It reproduces the text of all labour laws in force in the several States and under Congress, with annotations calling attention to decisions which have upheld their constitutionality. Since 1907 several new currents of thought have exercised a marked influence on the course followed by the law-makers, and directed it into channels more peaceful and more hopeful than those pursued before. Perhaps it is not too much to say that, as foreshadowed in legislation, the era of strikes and violence between organised labour and its immediate employers is giving way to a period in which the public is imposing upon employers an express legal duty to provide safe and sanitary work-places, and to allow reasonable hours of employment and rates of wage, and executive officers are being clothed with wider and wider judicial powers to aid them in enforcing these statutes.

Industrial Commissions.—Twenty States have since 1907 created departments, variously styled "Bureau of Labour," "Department of Labour and Industry," "Bureau of Labour Statistics," etc., to collect statistics as to the conditions of labour and rates of pay obtaining in each State, and some of these Bureaux are invested with executive powers to enforce the observance of certain laws coming within their field of investigation. The following passage

[1] *Labour Laws of the United States, with Decisions of Courts Relating Thereto.* Bulletin of the United States Bureau of Labour Statistics, Whole Number, 148, 2 vols., 2445 pp., April 10, 1914.

from the Arkansas statute will illustrate the usual scope of the statistical work required [1]:

The commissioner of labour and statistics shall collect, assort, systematise, and present in biennial reports to the governor, statistical details relating to all departments of labour in Arkansas, and especially as affecting or bearing upon the commercial, social, educational, and sanitary conditions of the employees and their families, the means of escape from dangers incident to their employment, the protection of life and health in factories and other places of employment, the labour of children and of women and the number of hours of labour exacted of them, and in general all matters and things which affect or tend to affect the prosperity of the mechanical, manufacturing, and productive industries of this State and of the persons employed therein.

The following section from the Georgia Act indicates a duty frequently required of these commissions [2]:

Said commissioner may inquire into the causes of strikes and lockouts, and other disagreements between employers and employees; and, whenever practicable, offer his good offices to the contending parties with a view to bringing about friendly and satisfactory adjustments thereof.

In a number of States the varied duties of factory inspection and enforcement of the Factory Acts, previously carried out by other authorities, are transferred to the new department.[3] So also with the maintenance of free public employment offices. The Massachusetts statutes creates a board of five members to exercise these powers, and enacts that [4]:

One member of the board shall be an employer of labour, one a wage-earner, one a physician or a sanitary engineer, and at least one a woman.

In four or five States the Industrial Board or Commission is given even wider powers. For instance, in Wisconsin it is given authority [5]:

To ascertain and fix such reasonable standards and to prescribe, modify, and enforce such reasonable orders for the adoption of safety devices,

[1] S. 3, Act No. 322, 1913.

[2] S. 5, Acts of 1911, p. 133.

[3] See, for instance, Pennsylvania Act, No. 267 of 1913; Minnesota Acts of 1913, c. 518.

[4] S. 1, c. 726, Acts of 1912.

[5] S. 2394–52 (4) of Statutes of 1911, as amended by c. 462, 584, 587, 588 and 772, Acts of 1913. So also in New York.

safeguards, and other means or methods of protection to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life, health, safety and welfare of employees in employments and places of employment or frequenters of places of employment.

The Ohio statute contains practically all the features enumerated.[1] In California the board is called the Industrial Welfare Commission, and has, besides the usual powers common to these bureaux, the power to fix minimum wages and maximum hours of labour for women and children, which in other States is as a rule reserved for a separate and independent commission.

Child and Female Labour.—Another line of statutes even more characteristic of the time is that which reflects the increasing share taken by women in public affairs, whether with or without the vote, and is concerned with protecting women and children from the excessive strain of competitive labour conditions. In the last seven years twenty-two States have passed laws either forbidding entirely the employment of women and children in certain named occupations which are designated dangerous to life, health, or morals, or making such employment conditional upon the employer's installing the most efficient possible safeguards. A fair example of such an Act is the Delaware Act of 1913,[2] which is the Uniform Child Labour Law, embodying the principles agitated for by the National Child Labour Association. It enumerates employments in which children under fifteen years of age may not be engaged, others are prohibited to children under fourteen, and still others to children under twelve. Children under sixteen may be employed only subject to certain conditions as to safety, school attendance, hours of labour, etc. A good specimen prohibitory section is the following from the Minnesota Act of 1913[3]:

No children, under the age of sixteen years, shall be employed at sewing belts, or to assist in sewing belts in any capacity whatever; nor shall any such children adjust any belt to any machinery; they shall not oil or assist in oiling, wiping, or cleaning machinery; they shall not operate or assist in operating circular or band-saws, wood-shapers, wood-jointers, planers, and paper or wood-polishing machinery, emery or polishing wheels used for polishing metal, wood-turning or boring machinery,

[1] Acts of 1913, p. 95. [2] C. 176. [3] C. 316, s. 9.

stamping machines in sheet-metal and tinware manufacturing, stamping machines in washer and nut factories, nor as pin-boys in bowling alleys; they shall not operate or assist in operating dough brakes or cracker machinery of any description, wire or iron-straightening machines; nor shall they operate or assist in operating rolling-mill machines, punches or shears, washing, grinding, or mixing mill or calender rolls in rubber manufacturing; nor shall they operate or assist in operating laundry machinery: nor shall they be employed in any capacity in preparing any composition in which dangerous or poisonous acids are used; and they shall not be employed in any capacity in the manufacture of paints, colours, or white lead; nor shall they be employed in any capacity whatever in the manufacture of goods for immoral purposes, or any other employment dangerous to their lives or limbs or their health or morals. No woman shall be required or permitted to oil or clean moving machinery.

Practically all these States prohibit the employment of children at night-work. There is a growing movement to prohibit work by women at night as well: there are laws to that effect in eight States, of which the following sections from the Pennsylvania Act are an illustration [1]:

No female shall be employed or permitted to work in any manufacturing establishment before the hour of six o'clock in the morning, or after the hour of ten o'clock in the evening, of any day. Provided, that this section shall not apply to managers, superintendents, or persons doing clerical or stenographic work.

No female under twenty-one years of age shall be employed or permitted to work in, or in connection with, any establishment before the hour of six o'clock in the morning or after the hour of nine o'clock in the evening of any day. Provided, that this section shall not apply to females over the age of eighteen years employed as telephone operators.

A clause common to all the legislation on labour by women is that they must be provided with seats, or that they may not be employed in any occupation which requires them to stand continuously. Four States [2] prohibit the employment of women within four weeks after having given birth to a child, and three of these [3] prohibit their employment for several weeks before the birth.

[1] No. 466 of 1913, ss. 4–5.

[2] Connecticut, Massachusetts, New York, and Vermont.

[3] In Massachusetts and Vermont she may not be employed two weeks, and in Connecticut four weeks, before the birth.

Another movement which is gaining great headway is the attempt to fix for women and children a minimum living wage enforced by law. Nine States have already passed laws providing machinery for the fixing of such a wage in various industries, after due public hearing, and enforcing it.[1] Most of them set up a Minimum Wage Board, whose members are not paid; the Board is empowered to investigate the conditions and wages in any industry to which its attention is properly called, and if it considers the average wage insufficient it can summon a conference between representatives of the employers, the women employed, and the public, to hear all the facts and arguments, and fix a minimum wage. The Washington statute explains that [2]:

> The welfare of the State of Washington demands that women and minors be protected from conditions of labour which have a pernicious effect on their health and morals. The State of Washington, therefore, exercising herein its police and sovereign powers, declares that inadequate wages and unsanitary conditions of labour exert such pernicious effect.

Nearly every State in the Union has done something in the last decade to limit the daily hours of labour of women. Only five Legislatures have been bold enough to cut the time down to eight hours a day.[3] The most popular limit is either nine or ten hours in any one day, and fifty-four hours in any one week. Thirteen States have adopted those limits, and they include most of the metropolitan centres. Eleven States, however, permit from fifty-eight to sixty hours of work a week; these are principally in the South.

Mothers' Pensions.—More widely accepted than the minimum wage is the principle of mothers' pensions, which has been embodied in the legislation of no less than twenty States in the last seven years. These laws usually throw upon the local authorities in each county or municipality the duty of granting aid to widowed or deserted mothers who have children to support, to enable them to keep their children by them, and send them to school until they have reached the age of sixteen. The usual grant allowed is $10

[1] California, Colorado, Massachusetts, Minnesota, Nebraska, Oregon, Utah, Washington, and Wisconsin. As to the constitutionality of these laws see Journal, vol. xv. p. 56.

[2] S. 1, c. 174, 1913.

[3] Arizona, California, Colorado, Washington, and Porto Rico.

a month for the first child and $8 for each additional one, although in three States [1] the allowance is $15 for the first child and in Wisconsin it is $20. Not more than five or six of these States appear to permit the pension to be granted to unmarried mothers. Most of them provide that if the mother is not a fit person to receive the pension it should be paid to some other person for the benefit of the child, and in nearly all States the payments are to be supervised by the juvenile courts or the probation officers of the district.

Industrial Accidents and Diseases.—Apart from Workmen's Compensation Acts, which are not included in this Bulletin, there has been a marked tendency since 1907 to pass laws protecting workmen from accidents in dangerous employments and from contracting occupational diseases and to make easier their recovery of damages in actions at law when they have suffered injury. Thirteen States have passed laws in the nature of employers' liability acts depriving employers of the defences of assumption of risk or fellow-service, in certain named employments, especially railroading and mining. The Louisiana statute is a model of brevity [2]:

> Assumption of risks by an employee, or the negligence of a fellow-servant shall not be a defence to an action for damages for personal injury, but may be considered by the Court in determining the measure of damages. Provided, the provisions of this Act shall apply only to public service corporations.

In five States [3] recent Acts make it compulsory upon employers in occupations in which workmen are liable to contract industrial diseases from fumes or dust to which they are exposed, to provide suitable hoods, ventilators, and other devices to carry off such dust and fumes, and to provide proper medical attendance both to prevent the contraction of and to cure occupational diseases. Nine States have passed laws requiring the installation of proper guards upon dangerous machinery and around dangerous places in factories, and in other States most of the Departments or Bureaux of Labour are empowered to prescribe similar regulations. In this group might also be considered the "full crew laws," which have been

[1] Illinois, Washington, and South Dakota.
[2] No. 187, 1912.
[3] Illinois, Massachusetts, Missouri, Ohio, and Pennsylvania.

passed in twenty-one States prescribing the minimum number of operatives with which a moving train must be equipped, for the safeguarding of the public as well as of the employees.

Strikes, Picketing, etc.—Of the old type of labour laws, intended to protect unions against employers or employers against unions, there is little trace in the statutes passed since 1907. Four States have copied the older statutes prohibiting blacklisting and boycotting, and two have passed copies of the familiar Act prohibiting employers from coercing workmen in their choice of tradespeople, but that is all. The laws on intimidation of workmen, interference with union or non-union workers, strikes, picketing, etc., all belong to the period before 1907.

Workmen's Compensation

A Digest of Workmen's Compensation and Insurance Laws in the United States has been compiled by F. Robertson Jones, of the Workmen's Compensation Publicity Bureau,[1] and arranged in a most ingenious tabulated form which permits of ready comparison of any one item in all the statutes. Under thirty-five headings the salient features of sixty-three Acts are presented in adjoining columns, the pagination being such as to keep the sheets down to quarto size without in the least impairing the facility with which each separate heading can be followed down through the whole list.

Since 1911 twenty-four States[2] have passed workmen's compensation laws, partly modelled on the English Act of 1906, and in six other States commissions are at present investigating the subject with a view to drafting bills for later adoption.[3]

[1] Published December, 1914, by the Bureau, at 80, Maiden Lane, New York City.

[2] Arizona, California, Connecticut, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, New York, Ohio, Oregon, Rhode Island, Texas, Washington, West Virginia, and Wisconsin.

[3] Idaho, Indiana, Missouri, Pennsylvania, Tennessee, and Vermont. During 1915 the following eight States have passed new workmen's compensation laws: Colorado, Indiana, Maine, Montana, Oklahoma, Pennsylvania, Vermont, Wyoming. The following fourteen States have amended their workmen's compensation laws during 1915: California, Connecticut, Illinois, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, Oregon, Rhode Island, Washington, West Virginia, Wisconsin. These new laws and amendments will be found noted in the 1915 Digest to be published by the same Bureau in December 1915.

Elective Principle.—But that does not mean that all workmen are in those Sates compensated under the Acts, for in eighteen of the twenty-four States constitutional obstacles have forced the Legislatures to make the compensation system created merely elective, not compulsory; that is, that employers may register an election not to be bound by the Act; and in four [1] of the six States where the system is compulsory it is designed not to include all employments, but only certain hazardous or extra hazardous occupations enumerated in the Act. Only in the two States of California and Ohio [2] is there a compulsory compensation scheme covering all classes of employment. Of the eighteen elective schemes, five are only for hazardous employments enumerated; [3] the other thirteen cover all employments.[4]

In nearly all the States where the system is elective the employer, if he elect not to come within the scheme, is penalised by the abrogation of the defences of fellow-service, assumption of risk, and contributory negligence, in actions against him by injured workmen.

Injuries Covered.—The Texas Act [5] covers all "personal injuries sustained in the course of employment"; the Illinois Act [6] all "arising out of and in course of employment." All the other States enact exceptions from such a broad statement. Generally the clause goes on to say, as in Nebraska,[7] "unless due to wilful negligence or intoxication," or, as in Minnesota,[8] "unless intentionally self-inflicted," or both. The Arizona Act further requires not only that the injury should arise "out of and in the course of the employment," but that it must be "due wholly or partly to a necessary risk of the employment." [9] In Maryland the compensation covers not only accidents in employment, but also "such diseases or infection as may naturally and unavoidably result therefrom." [10]

[1] Arizona, Maryland, New York, and Washington.

[2] California: c. 176, Laws 1913, elective as to farm labour, domestic service, and casual employment; compulsory as to all other employments. Ohio: Act of 1911, as amended in 1913 and 1914; incorporated in the new General Code of Ohio as ss. 871–1 to 871–12 and ss. 1465–37 to 1465–106.

[3] Kansas, Kentucky, Louisana, New Hampshire, and Oregon.

[4] Connecticut, Illinois, Iowa, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Jersey, Rhode Island, Texas, West Virginia, and Wisconsin.

[5] C. 179, Laws 1913.

[6] Act approved June 28, 1913.

[7] C. 198, Laws 1913.

[8] C. 467, Laws 1913.

[9] C. 14, Laws 1912.

[10] C. 800, Laws 1914.

Compulsory Insurance.—Fifteen of the twenty-four States make it compulsory for employers subject to the scheme either to insure in an authorised company or a State Fund, or to furnish proof of financial responsibility. In four of those States the insurance must be taken in a State Insurance Fund created by the Act. The Washington Fund [1] is divided, after the German model, into forty-seven different classes, each maintained separately by assessments upon employers assigned to the respective classes, and each class of the Fund is designed to be self-supporting and all losses in its class must be paid from it. The West Virginia Fund [2] is divided into twenty-three classes, and is maintained by assessments upon employers and contributions from workmen (according to class) and by subsidies from the State to cover the cost of administration. The Oregon Fund [3] is divided into only two classes, and the Nevada Fund is left to be classified by Commissioners. In seven other States a State Fund is created, but the employer has his option either to subscribe to that, to insure in a private company, or, with leave, to underwrite his own risks.[4] In the other four States no State Fund is created.[5]

Complementing the compulsory insurance clause, four States make it a misdemeanour, punishable by fine or imprisonment up to six months and $1,000, for an employer to deduct from the wages of his workmen any part or the whole of the premiums payable for the insurance of compensation risks [6]; and three States enact that if the employer misrepresents the amount of pay-roll on which his insurance premiums are calculated, he is liable to the State Fund in a sum ten times the difference between the true and false amount of premium payable.[7]

Medical Aid.—In addition to regular compensation all but five of the Acts require the employer to provide or pay for medical attendance and supplies for varying periods after the accident, and within named limits of expense. The periods vary from one week in Texas, to ninety days in California, Minnesota, and Wisconsin;

[1] C. 74, Laws 1911, as amended by c. 148, Laws 1913.
[2] C. 10, Laws 1913.
[3] C. 112, Laws 1913.
[4] Kentucky, Maryland, Massachusetts, Michigan, New York, Ohio, and Texas.
[5] Connecticut, Illinois, Iowa, and Wisconsin.
[6] Illinois, Iowa, Ohio, and Washington.
[7] Kentucky, New York, and Washington.

New York and Illinois make it eight weeks; five States make it two weeks.[1] The maximum cost is fixed by New Jersey at $50, by three States at $100,[2] by two States at $150,[3] by four States at $200,[4] and by Oregon at $250. Practically all the Acts require the injured workman to submit to medical examination not only soon after the accident, but afterward from time to time when reasonably requested by the employer, and refusal so to submit suspends the compensation while the refusal persists.

Commissions to Settle Disputes.—In the matter of providing a judicial medium for the settlement of disputes arising out of the Acts the State Legislatures show little faith in their law courts. In only five out of the twenty-four Acts is it provided that disputes shall be, in the first instance, taken into Court; and fourteen of the States have created special Commissions or Boards for workmen's compensation administration, or have transferred judicial powers under the Acts to already existing labour or industrial Boards. Two of the States that have Industrial Boards, however, do not use them for this purpose; in New Jersey [5] disputes as to compensation are to be determined by a Court of Common Pleas "in a summary manner"; and in Illinois by arbitration before a committee of which a member of the Industrial Board must be chairman. In the eight States that have no Boards two, Iowa [6] and Kansas,[7] have individual Labour Commissioners, and in those States disputes are settled by arbitration before committee or an arbitrator appointed either by the parties or by the Commissioner; in Arizona the dispute must be submitted to the Attorney-General; and in Nebraska the parties must attempt to arbitrate, failing which they may go before a District Court judge in equity. In the other four States [8] the dispute is taken directly into Court.

Of the fourteen States where the Commission decides disputes,

[1] Iowa, Louisiana, Massachusetts, New Jersey, and Rhode Island.
[2] Iowa, Kentucky, and Louisiana.
[3] Maryland and West Virginia.
[4] Illinois, Minnesota, Nebraska, and Ohio.
[5] C. 95, Laws 1911, as amended by c. 174, Laws 1913, and c. 244, Laws 1914, supplemented by c. 241, Laws 1911 (as amended by c. 156, Laws 1912, and c. 177, Laws 1913), c. 368, Laws 1911, c. 156 and 316, Laws 1912, and c. 145 and 301, Laws 1913.
[6] C. 147, Laws 1913.
[7] C. 218, Laws 1911, as amended by c. 216, Laws 1913.
[8] Louisiana, Minnesota, New Hampshire, and Rhode Island.

in eight the disputes go directly and in the first instance to the Commission.[1] In the other six[2] the Commission reviews awards made by arbitrators, referees, or committees appointed by it. But the Commission is not the final authority, for in all the Commission States except Nevada appeals may be taken from the Commission, on points of law, to the ordinary appellate Courts of the State. In Nevada the Commission is final.[3] All the non-Commission States likewise allow appeals to the higher Courts, with the exception of Iowa, where the decision of the Industrial Commissioner is final.

Remedy if Compensation Not Paid.—Where, after any of these proceedings, the employer fails to pay the compensation as agreed or awarded, eleven of the twenty-four States empower the workman either to enter judgment for the sum in default, by filing a verified copy of the award or agreement, or to proceed to execution as on a judgment. In the other thirteen States he would have to commence an ordinary action at law to enforce the payment. Nine of these thirteen are Commission States. It would appear, therefore, that what the Commission system gains in freedom from legal associations it loses by hampering the workman in any case where he is seriously disputed.

The modes of calculating the compensation payable vary too greatly to be capable of brief review. In the main they follow the English plan of weekly payments based on the worker's earnings, with provision for " commutation," or redemption, in certain classes of cases.

There are still eighteen States where there is no workmen's compensation scheme in force, and no Commission preparing one.

[1] Kentucky, Nevada, New York, Ohio, Oregon, Washington, West Virginia, and Wisconsin.

[2] California, Connecticut, Maryland, Massachusetts, Michigan, and Texas.

[3] C. 111, Laws 1913.

SOME NOTES ON THE CONSTITUTION AND LEGISLATION OF THE FEDERATED MALAY STATES.

[*Contributed by* J. R. INNES, ESQ., *Barrister-at-Law, Judicial Commissioner, Federated Malay States.*]

THE term "protectorate" is applied to a number of territories which possess the common feature of being subject to British influence in varying degrees, but which in many instances have very little in common, when regarded from the point of view of their constitutional and economic development. The group of States under British protection known as the Federated Malay States has perhaps attained to a higher point of development in these two respects than any other British Protectorate; it is thought that this circumstance may lend some interest to these short notes upon the constitution and legislation of the States.

Treaties.—The Protectorate of the F.M.S. is based upon treaty or agreement with the Rulers of the different States. In this respect they are distinguishable constitutionally from the class of protectorates, *e.g.* Nigeria and Bechuanaland, which are administered under the provisions of Orders in Council issued by virtue of powers conferred upon His Majesty by the Foreign Jurisdiction Act, 1890. The parties to the Malayan treaties or agreements adopted what has proved to be the wise course of not attempting to define the limits within which British influence shall operate, the only exception to this policy being a provision in the treaties against interference with the Muhammadan religion, which is the religion of Malays throughout Malaya. When the Rulers of the four States now forming the F.M.S. agreed in 1895 to federation an agreement known as the Treaty of Federation was drawn up.

To illustrate the constitutional relation of the Rulers of the

States towards their British advisers it will be sufficient to cite a clause of this treaty. Clause 4 of the treaty is as follows :

The above-named Rulers agree to accept a British Officer, to be styled the Resident-General, as the agent and representative of the British Government under the Governor of the Straits Settlements. They undertake to provide him with suitable accommodation, with such salary as is determined by Her Majesty's Government, and to follow his advice in all matters of administration other than those touching the Muhammadan religion. The appointment of the Resident-General will not affect the obligations of the Malay Rulers towards the British Residents now existing, or to be hereafter appointed to offices in the above-mentioned protected States.

It may be added that the Rulers of the States have loyally furthered the objects of this treaty, and that the development of the great resources of the States has proceeded under the administration of a highly efficient British Civil Service at a pace which finds no parallel in any other tropical country. Federation has not abrogated the legislative power of the State Councils, though it has resulted in a considerable diminution of the activities of these legislatures.

Sovereign Legislatures.—In 1909 a Federal Council was created by an agreement between the High Commissioner and the Rulers of the States of Perak, Selangor, Negri Sembilan, and Pahang. The object in view, as stated in the preamble to the agreement, was to provide means " for the joint arrangement of all matters of common interest to the Federation or affecting more than one State, and for the proper enactment of all laws intended to have force throughout the Federation or in more than one State." The Council consists of the High Commissioner as President, the Chief Secretary, the Sultans of Perak, Selangor, and Pahang, the Yan Tuan of Negri Sembilan, the four British Residents, the Legal Adviser and four unofficial Members, nominated by the High Commissioner with the approval of the King. The State Councils consist of the Ruler of the State, the British Resident and his Secretary, some Malay notables, and usually one Chinese gentleman of good standing.

Both the State and the Federal Councils possess all the attributes of sovereign legislatures. In a recent case, *Yap Hon Chin* (appellants) v. *Jones Parry and Cowan* (respondents)[1] which

[1] Not reported.

came before the Court of Appeal of the F.M.S. it was urged on behalf of the appellant, against whom proceedings had been taken under the Banishment Enactment, 1900, of the State of Selangor, that the Court ought, for various reasons which need not be entered into here, to declare the enactment to be *ultra vires*, and the argument was supported by reference to cases decided in Crown Colonies and to the principles of English constitutional law in its relation to British territory overseas. The Chief Judicial Commissioner, Sir Archibald Law, said upon this argument in his judgment: "But as I understand it, matters here are not on the same footing as in a Colony. I think the Supreme Legislative Authority in the State is vested in the Sultan, except perhaps in so far as the Sultan may have limited his own powers by treaty or by grant of legislative authority to some council or other body," and he goes on to say that, even if the Sultan's power to legislate has now been limited to legislation by the Sultan in Council (as in practice it is), "that would, I think, only mean that the Sultan in Council has such power to legislate as Parliament has in the United Kingdom." The correctness of this view has not been questioned, though the case was on other grounds carried to the Privy Council.

Legislation by His Majesty in Council.—The question whether His Majesty the King could legally by Order in Council made under the Foreign Jurisdiction Act, 1890, legislate for these States might perhaps be a nice point for constitutional lawyers to determine. It is impossible to discuss it within the compass of these notes. Moreover, it would be a question of purely academic interest, for this jurisdiction has never been assumed, and its assumption is not now a likely contingency, because there is no reason to believe that any difficulty would be experienced in passing through the local legislatures, whether Federal or State, any matter of Imperial moment which might form the subject of an Order in Council in Crown Colonies or Protectorates where legislation from that source is usual.

Two Orders in Council have been passed for application to the F.M.S., viz. the Federated Malay States Appeals Orders in Council of 1906 and of 1912, the latter of which is now in force. But the promulgation of these Orders furnishes an argument against the existence of the jurisdiction in question, rather than in its favour; for the preamble to the Order recites that the legislatures

of the four F.M.S. have provided in the Courts Enactment, 1905, for such an order. The section of the Courts Enactment is as follows :

> From any judgment or order of the Court of Appeal in any civil matter, an appeal may be made to His Britannic Majesty in Council, subject to such rules and regulations as may from time to time be prescribed by order of His Majesty in Council (section 31).

Codification.—The most striking feature of the legislation of the F.M.S. is the number of Codes which it contains. The States have adopted from India its Penal Code, Criminal and Civil Procedure Codes, Evidence Act, Contract Act, and Negotiable Instruments Act. But they are far from being wholly dependent upon India for their codified enactments. The local Labour Code, Mining Code, Land Enactment, and Registration of Titles Enactment are good examples of codification, and have been found suitable to local requirements ; the first codes dealing with land tenure and registration of title were the work of the late Sir William Maxwell, formerly the Resident of Selangor. This officer was a civilian barrister who made a special study of land administration. His work was done some twenty-five years ago, but it still endures and forms the foundation of a land policy which has proved itself adequate to the requirements of the different classes of landowners in the States. The writer remembers seeing, when he came to the Crown Colony of the Straits Settlements twenty-eight years ago, Asiatic owners of small plots of land bringing to the Government Land Offices bundles of title-deeds made out in the language of English conveyancers. It is due to the broad-minded and courageous policy of Sir William Maxwell that this melancholy spectacle has never been met with in the Federated Malay States.

Muhammadan Law.—Malays, as was mentioned above, are Muhammadans, and it has been the policy of the British Administration of the States to interfere as little as possible with their personal religious law. Though there is no direct enactment of the legislature to that effect, it may safely be said that the Muhammadan rules of testamentary disposition and of inheritance remain practically as they were before the advent of British influence. A recent decision of the Supreme Court[1] has declared a will of a foreign Muham-

[1] Selangor Civil Suit, 594–14.

madan domiciled in the States which was valid in form according to English law to be inoperative in so far as it made dispositions of property which were in contravention of the law of Islam.

Chinese Law.—The legislator and administrator in the F.M.S. have to deal with difficult problems arising out of the presence there of so many different races with different customs and religions. The Chinese are the most numerous of the foreigners, and among them every social grade is represented from the coolie to the wealthy merchant, miner, or landowner. It has not been found advisable to refuse all recognition to Chinese law or custom. In the State of Perak an enactment styled the Recognition of Chinese Laws Order in Council was passed in 1893. Its preamble is as follows: "Whereas it is expedient that certain national laws and customs of the Empire of China, regarding marriage, adoption, and inheritance, should be recognised as law and enforced by the Courts of the State of Perak in adjudicating upon such matters among the Chinese community, it is hereby enacted by His Highness the Sultan in Council, etc., etc." *Inter alia*, this law recognises the status of an adopted son, and of a "principal" and "inferior" wife, and lays down a few rules for the devolution of the property of an intestate of Chinese nationality. It is remarkable that the legislatures of the other States have not a similar law, but the Supreme Court has in these States given effect to the principles of this law, and the federalisation of the laws of the different States which is now going on will no doubt before long remedy this legislative anomaly.

Another enactment which is in force in all the States, styled the "Secretary for Chinese Affairs Enactment," enables persons of Chinese nationality to refer to the Secretary for Chinese Affairs (a Chinese-speaking civil servant) for his decision questions arising between them as to the custody and guardianship of women and children; divorce and separation; adoption and betrothal; and charities and trusts. The Enactment directs that, in deciding such matters, the Secretary "shall, as far as local circumstances and justice and equity allow, pay regard to the known laws and customs of the Chinese, and may, if he thinks fit, require one or more Chinese assessors to assist him in disposing of such cases." The Supreme Court is given powers of supervision over the proceedings of the Secretary. The utility of the Enactment depends mainly upon the

personality of the officer holding for the time being the post of Secretary for Chinese Affairs.

English Law.—It has been laid down in the local Supreme Court that " English law, as such, does not prevail in these Courts except in so far as it has been adopted." [1] Such adoption will, the writer thinks, be effected henceforth more largely through judicial decision than by the legislature, and if this is so a heavy responsibility rests upon the judiciary. As examples of such adoption already effected there may be cited the judicial sanction which has been accorded to the application to local conditions of much of the English law of torts, and of the principles of English statute law in respect of fraudulent dispositions of property. Examples of the problems awaiting solution are suggested by the absence of any legislation or judicial decision upon the subject of perpetuities and of restraint upon accumulation of wealth, and by the absence of any enactment upon the subject of trusts or of the guardianship of infants.

[1] *Ong Cheng Nee* v. *Yap Kwan Seng*, Supplement to Straits Settlements Law Reports for 1900 at page 5.

THE INCOME TAXES OF THE SELF-GOVERNING DOMINIONS.

[*Contributed by* S. E. Minnis, Esq.]

The Income Taxes which are dealt with in this article are those of the Australian Commonwealth (introduced by the Acts Nos. 34 and 41 of 1915, which became law on September 13, 1915), New South Wales, Victoria, Queensland, South Australia, Western Australia, Tasmania, New Zealand, the Union of South Africa, Prince Edward Island, and British Columbia. In the provinces of Canada other than Prince Edward Island and British Columbia no tax of the nature of an income tax is imposed for provincial purposes, but in some of the provinces there are municipal taxes on income forming a subsidiary part of general property taxes. These local taxes will not be referred to in the present paper.

The General Character of the Taxes.—In their general character the taxes under consideration may be described as occupying in some respects a position intermediate between the Continental general income taxes, of which the Prussian is the best-known type, and the English income tax. The normal procedure is on the whole that of direct personal assessment on, and collection from, the actual recipient of income, as in the case of the Continental taxes. But this principle of direct assessment and collection is by no means so rigidly adhered to as in the Continental systems, and there are a number of points where the method of collection at the source, the characteristic feature of the English system, has been adopted with a view to preventing a leakage of revenue. It may, however, be said that, as a rule, even where collection at the source is resorted to in the Colonial taxes, the provisions adopted represent, as compared with those of the English tax, a different method of looking at the matter. The difference might, perhaps,

without a serious misuse of terms, be indicated broadly by saying that in the English system there is *normally* " taxation of the source," while in the Colonial systems " taxation at the source " is *sometimes* resorted to. In the English system in its main outlines, at any rate before the modifications of 1907 and subsequent years, at the moment of assessment and collection the ultimate destination of the stream of income arising at a particular source is not kept in view ; the tax is collected as a whole, and by the process of deduction it finally comes to be borne by the ultimate recipients of the income in the form of a diminution of the amount falling to their respective shares. Thus, in the case of a house subject to ground-rent and a mortgage, the tax on the annual value of the property is collected from the tenant in one sum, and without distinction of ultimate destination. The tenant deducts the tax from his rent, and his landlord deducts a proportionate sum from the ground-rent and mortgage interest, bearing the balance himself. Though for certain purposes the distribution of the income comes under the cognisance of the Revenue authorities, it does not do so as a necessary part of the operation of levying the tax. In the Colonial taxes, though the tax is in certain cases for administrative reasons collected at the source, the person paying it is in a much more definite manner than under the English tax recognised as being in the position of an agent for the ultimate recipient of the income, and the tax which he pays in this capacity is to a greater extent distinct from the tax which he pays in his personal capacity. As instances of taxation at the source may be mentioned the provisions in several States making companies the agents of their debenture holders. Again, reference may be made to provisions of the laws of Queensland and Tasmania, imposing a liability on employers in connection with the taxation of their employees. In these two States, if a taxpayer employed by any person has failed to pay the tax payable by him within a certain period the Commissioner may declare the employer to be the agent of the tax-payer, so far as the latter's income from salary or wages is concerned, and require him to pay the tax. On receipt of a notice to this effect the employer is bound under a penalty to deduct from the employee's earnings a sum sufficient to meet the tax and to pay this amount over to the revenue. Under the Commonwealth Act a lessee or occupier of property may be required to pay on behalf of a defaulting owner

the tax applicable to the rent. In Queensland, if a person residing outside the State owns land in the State, the tenant of the land is deemed to be the agent of the owner for the purposes of taxation. In South Australia there is a similar provision applying not only to rent, but to interest or other income arising from investments in the State and payable to a person outside the State.

In all the taxes dealt with the exemption limit is higher than that generally found in the Continental income taxes, and in most cases it is higher than that of the English income tax. The rate of charge is graduated in all the cases except Prince Edward Island, while in the Commonwealth of Australia, New South Wales, Victoria, Queensland, South Australia, and Tasmania there is differentiation between "earned" and "unearned" income, effected, as in the English tax, by a differential rate of charge within the income tax itself, as contrasted with the method more usually found on the Continent of differentiation by means of a special tax. As regards differentiation it should, however, be observed that, in the case of real property, special considerations apply, on account of the land taxes, usually on unimproved value, which are found in most of the States under discussion. The land taxes themselves fall outside the scope of this article, but some notes will be given later on the question of the application of the income tax to real property. In British Columbia not only are there real property taxes of a special character, but there is also a personal property tax. There is not, however, taxation both of personal property and of the income derived from it, as the law provides that only whichever tax is the higher shall be collected.

Statements of the exemption limits and of the rates of charge in the various States are given later. For comparative purposes it should be kept in mind that the real effect of these limits and rates of charge depends to a considerable extent on the attitude adopted towards a number of questions, including the extent to which the tax is applied to income arising outside the borders of the State concerned, the method of taxing married couples, the treatment of income from companies and from land, and the exemption from taxation of certain classes of income. Obviously the real burden of a given scale of charge with a given exemption limit will vary widely according to the degree of completeness with which the definition of "taxable income" may comprise all the various kinds

of income which the tax-payer may possess, and according as to whether the income of husband and wife is aggregated, or whether they are allowed a separate abatement and each taxed on a graduated scale depending on the total amount of his or her individual income. Some of the points which arise in this connection will be dealt with in later sections, and on the question of the definition of "taxable income" it will be sufficient here to state that, speaking generally, the definition is in many respects narrower in its scope than that of the English or of the Continental income taxes, while in a few points it is more comprehensive. As regards the taxation of married women, in most cases the rule is that the income of a married woman is liable to assessment and taxation as if she were unmarried. The Income Tax Act of the Union of South Africa, however, provides that "the income of a woman married with or without community of property, and not separated from her husband under a judicial order or written agreement, shall . . . be deemed to be income accrued to her husband. . . ." [1]

In the matter of dealing with the assessment and collection of income tax from foreign traders carrying on business in the State, there are in most of the cases under consideration special provisions of an effective nature. These provisions empower the assessing authorities to adopt as a basis of charge, instead of a pure profits basis, which in such cases is often difficult to determine satisfactorily, an arbitrary figure such as a fixed percentage of the total amount of sales made in the State.

On the administrative side the taxes under discussion differ from both the English and the Continental taxes. For the assessment of the latter taxes there are either, as in England, local bodies of Commissioners entirely independent of the central administration, or, as in most of the Continental cases, assessing bodies with a combination of local and official elements. In the Colonial taxes, on the other hand, the work of assessment is entrusted entirely to officials. There is, however, an appeal to an authority of a non-official character. Thus in New Zealand there is an appeal to a Stipendiary Magistrate, in South Africa to a specially constituted Court, consisting of three persons, one of whom must be a barrister and one an accountant, each of not less than ten years' standing, in Prince Edward Island to a County Court Judge, who in the words

[1] S. 11 of Union of South Africa Income Tax Act, 1914.

of the Statute " shall give judgment according to the very right of the matter." There is usually a further appeal to a higher Court, on questions of law, but in Prince Edward Island the decision of the County Court Judge is final.

In all cases returns are required from tax-payers. Failure to furnish returns usually entails a monetary penalty. In Prince Edward Island, however, the penalty is the loss of the right to appeal against an assessment made on estimate. In this State, under the Income Tax Act of 1911, returns were not required, the law providing that " the Provincial Treasurer shall each year make up a schedule in which he shall set forth, from the best information he can obtain, the names and residences and additions of every person supposed by him to be liable to income tax, under this Statute, with the amount of the supposed income, gains and profits of such person." An amending Act of 1913 has, however, now empowered the Provincial Treasurer to call upon any person whom he believes liable to tax to make a return under oath. In British Columbia the law provides for the form of return being signed by two witnesses.

The basis of the return is in all cases the income either of the preceding year or of the year of assessment. The South Australian Taxation Act of 1884 provided for the calculation of income from personal exertion on the basis of a three years' average, but this provision was repealed by an amending Act of the following year.

As regards the question of payment of the tax, it may be of interest to mention that in some cases a fine may be imposed, if payment be not made within a prescribed period after the due date. Thus in New South Wales a fine of 10 per cent. may be inflicted, if the duty is not paid within twenty-one days from the due date; in Queensland if payment is not made within thirty days, 5 per cent. is to be added, and after sixty days a further 5 per cent., unless the Commissioner is satisfied that the failure to pay in proper time has not arisen through the default of the tax-payer. Provisions of a similar character are also found in the laws of Victoria, Western Australia, and New Zealand, and in the Commonwealth Assessment Act. On the other hand Prince Edward Island and British Columbia try to encourage prompt payment by the gentler method of allowing a discount if the tax is paid by a certain date. In Prince Edward Island 5 per cent. is allowed, and in British Columbia 10 per cent.

The Scope of the Taxes. Territorial Limitations.—In New South

Wales, Victoria, Queensland, South Australia, Western Australia, and the Union of South Africa liability to taxation applies only to income arising or accruing in or derived from the State.[1] Similarly under the Commonwealth Assessment Act the new Federal tax is to apply to income derived directly or indirectly "from sources within Australia." In Tasmania, New Zealand, Prince Edward Island, and British Columbia the scope of the tax is not restricted in this manner. Thus, in Tasmania and New Zealand it applies to all incomes arising, accruing in, *received in*, or derived from the State. In Prince Edward Island every person resident in the province is expressly required to pay tax on "all income, gains, and profits derived by him or her from any investment or from any trade, employment, profession, or vocation, or from any source whatever [these words to be taken in their most general meaning, and not to be limited to the words *ejusdem generis*] and whether the source of such income, gains, and profits be within or without this province." In British Columbia the law provides that "all income derived from real and personal property in this province, and all income derived from any other source whatsoever, or wheresoever brought into, received, earned, or got by any person, body corporate, agent, trustee, receiver, guardian, executor, or administrator in this province, shall be assessed and taxed. . . ."

Special Exemptions.—Apart from exemptions on the ground of smallness of income, and provisions directed to the avoidance of double taxation, which will be referred to later, there are numerous specific exemptions of certain classes of income.

One important case is the exemption of income from the Government securities of the State imposing the tax. In all the Australian States except Tasmania income from the Government securities of the State concerned is exempt without limitation,

[1] It is not intended to imply that, in arriving at the assessment in respect of a business carried on in one of these States, all profits arising from transactions abroad would necessarily be excluded. Without an intimate knowledge of the administrative practice in the various States, it would be hazardous to attempt to indicate a precise line of distinction in such a case. The question is admittedly a difficult one. Cf. statement made by Mr. J. G. Russell, Commissioner of Taxes for South Australia before the South Australian Taxation Acts Commission of 1900—"That is a portion of the Act which is very difficult to understand—whether certain income is or is not derived from South Australia—and the question is one which involves careful consideration of legal cases and the views of judges in a large number of decisions on the point."

while in Tasmania the exemption is limited to income from Tasmanian securities redeemable elsewhere than in Tasmania. In the Union of South Africa the exemption of Government securities (including securities of the constituent provinces of the Union) operates in favour only of persons who are not resident in the Union, and in New Zealand the position is almost the same. It may be of interest to note that the New South Wales Act of 1895, and the Victorian Act of the same year, contained words limiting the exemption in respect of income from Government securities to persons not resident in the State, but these limiting words have disappeared as the result of more recent legislation. The Commonwealth Assessment Act exempts income derived from the bonds, debentures, stock, or other securities of the Commonwealth issued for the purpose of the War Loan Act (No. 1), 1915.

In Victoria, New Zealand, and the Union of South Africa exemption is also allowed in respect of income from securities of local authorities held by non-residents.

The British Columbia Taxation Act exempts from the personal property tax " so much of the personal property of any person as is invested in the stocks, bonds, or debentures of the Province, or any of the municipalities of the Province," but there does not appear to be any exemption from income tax, " income " being defined in the Act as including " . . . all income, revenue, rent, or interest accrued or due from bonds, notes, stock, shares of stock, debentures (including interest or dividends from the stock, bonds, or debentures of this Province, or of any municipality of this Province). . . ."

The exemptions just mentioned are based on the special nature of the source from which the income is derived. There are a considerable number of others which are based on the special character of the recipient of the income. Thus in the tax laws of all the States, except Prince Edward Island, there are exemptions in favour of the Governor-General, Governor, or Lieutenant-Governor as the case may be. In most cases, as in the Commonwealth of Australia, Victoria, Western Australia, Queensland, New Zealand, and the Union of South Africa this exemption applies in terms only to the official emoluments, while in others, as in Tasmania and British Columbia, there is no such restriction. The South African Income Tax law exempts not only the official emoluments of the

Governor-General, but also those of his personal staff, and of all persons in the service of the Imperial Government in the Union. It also exempts the salaries of Union officials who are stationed in the United Kingdom. British Columbia exempts the pay of any person in His Majesty's regular army and navy in actual service; pensions, salaries, or gratuities derived from His Majesty's Imperial Treasury, and all the personal property and income of any person in the naval or military services on full pay, or otherwise in actual service; also all pensions payable out of the public moneys of the Imperial Treasury, or out of the public moneys of the Dominion of Canada, or of any province thereof.

Exemptions in favour of local authorities, building and friendly societies, religious, charitable, and educational institutions are usual. There are also in many cases exemptions in favour of companies, societies, etc., not carrying on business for the purpose of profit or gain. The law of Prince Edward Island, which is otherwise to an unusual degree lacking in special exemptions, relieves from taxation "clergymen upon their salaries, stipends, and dues, and school teachers upon their professional annual income."

Provisions for Relief from Double Taxation.—Under this title might be grouped a large number of provisions of very different character. Thus, under such a heading reference might be made to the subject of the territorial limitation of the scope of the taxes, which has already been dealt with. The principle adopted in some of the States under consideration of charging only income arising in or accruing in the State obviously has the result that, in these instances, so far as residents in the State are concerned, the question of double taxation of the same income by different taxing authorities cannot arise to the same extent as in cases where the charge is based on income arising in *or received in* the State.

But, besides such provisions which are of a fundamental character, there are a number of minor provisions which are intended to relieve from a double taxation by two taxing authorities, and the operation of which is contingent on proof that double taxation would otherwise arise. Thus, in Western Australia and New Zealand exemption is allowed in respect of income derived by any pensioner resident in these States from a pension from the Crown in Great Britain or from the Government of any British possession, provided he satisfies the taxing authority that his pension is liable to income tax or the

like tax in Great Britain or the British possession from which it is derived, and that such tax has been duly paid. New Zealand also grants exemption on similar terms to active officers of the Crown in Great Britain or of any British possession who are resident in New Zealand. Under s. 114 of the Tasmanian Land and Income Taxation Act, 1910, it is provided that " where any tax-payer residing in this State derives any income from any source out of this State such tax-payer shall be entitled to deduct from the amount of income tax payable by him by virtue of any assessment under this Act, upon the income so derived, such sum as he shall prove to the satisfaction of the Commissioner to have been paid by him upon such income by way of income tax elsewhere." The Victorian Income Tax Act of 1906 contains a provision which is of interest as being an instance of a special provision for the avoidance of double taxation as between two States of a federation. S. 4 of this Act enacts that " where the head or principal office or principal place of business of a tax-payer (being a manufacturer) is in Victoria, and the trade carried on by such tax-payer extends to any other State of the Commonwealth, and income thence arising is subject to income tax in such other State, the Commissioner may, in the assessment of the income of such tax-payer chargeable with tax under the Income Tax Act, make such an allowance in respect of the income which is subject to tax in such other State as in his opinion is just and reasonable, provided that no allowance made under this section shall exceed the proportion which the amount of the gross receipts of such trade in such other State during the year immediately preceding the year of assessment bears to the amount of the total gross receipts of such tax-payer from such trade in Victoria and elsewhere during the same period."

The provisions just referred to relate to the prevention of double taxation of the same income by different taxing authorities. Other forms which double taxation may take are those of the double taxation by the same authority of income (or of income and the source or property from which it is derived), under the income tax, or under the income tax and another tax, such as a land tax or a property tax. As regards these forms of double taxation, reference may be made to the sections of this article dealing with the taxation of real property, and the taxation of companies. The exemption in South Africa of income from mining profits which are liable to the special

tax on mines is an important instance of a provision for the avoidance of double taxation of the same income under different taxes of the same State. The provision of the British Columbian law already referred to under which the personal property tax and the income tax are not both collected may also be recalled in the present connection. In Prince Edward Island there is a tax on the value of the young of foxes kept in captivity, and where this tax is paid the profit of the farmer from fox-breeding does not fall under the income tax.

Income from Real Property.—In many of the States dealt with there are heavy land taxes, and provision has in several instances been made to give some relief from income tax in respect of income from real property. Without attempting to give an exhaustive account of the provisions relating to the taxation of income from real property, a few instances may be cited. In New Zealand up to the current year exemption from income tax was allowed to owners of land in respect of the rent or the profits derived from its direct use and cultivation, and to mortgagees of land in respect of the income from their mortgages. This exemption has now been repealed by the Finance Act, 1915, which became law on October 1, 1915. Where, however, a tax-payer occupies and uses for the sole purposes of his business, or for the purpose of deriving rent or other profit therefrom, any land of which he is the owner, he is entitled to claim as an outgoing in arriving at his profits for the purpose of assessment to income tax 5 per cent. of the capital value of his interest in the property. In Tasmania a deduction of 5 per cent. of the unimproved value is allowed in assessing income derived from the rent of land. In the case of a tax-payer owning, and occupying for the purposes of business, any land in respect of which he is liable to land tax, he may deduct from the income derived from the land or from carrying on business on the land, a sum equal to 5 per cent. of the unimproved value. No deduction is, however, allowed where the tax-payer carries on any pastoral, agricultural, or horticultural pursuit, unless he carries on such pursuit as his chief means of living. In Prince Edward Island and British Columbia exemption is allowed in respect of income derived from farming.

So far as the income taxes under consideration apply to income derived from real property, they are as a rule pure income taxes, the charge being on rents, or profits, and not on annual value as in

the United Kingdom. In the laws of Victoria and South Australia and also in the Commonwealth Assessment Act provision is, however, made for the taxation under the income tax of improved land used by the owner himself for residence or enjoyment from which no monetary income is derived. In the first case 4 per cent., and in the two last 5 per cent. of the capital value is taken as the taxable income.

A further point to which reference may be made is that, as a rule, the Colonial laws go further in requiring the annual value of a residence occupied by a tax-payer in connection with an office or employment filled by him to be regarded as his *personal* income than does the English law as interpreted by the decisions in *Tennant* v. *Smith* [1] and *McDougall* v. *Sutherland.*[2]

In one or two instances provision is made enabling the tax due in respect of income from the ownership of land to be recovered from the tenant where the owner resides outside the State.

Extension of Liability to certain non-annual Receipts.—In a few cases there are provisions making liable to income tax certain receipts of a casual or non-annual character, which are not ordinarily regarded as income. Thus, in Tasmania prizes in any lottery authorised by law in the State are taxed at a flat rate of 1*s.* 6*d.* in the £ without any abatement. Under the Commonwealth Act cash prizes in lotteries are required to be treated as income for taxation purposes. Western Australia charges income tax in respect of stakes won in horse-races in the State. The tax is paid over by the racing clubs, and deducted from the stakes. In 1913–14 the receipts from this source were £1,684 in respect of stakes amounting to £101,056. A recent Act of New South Wales has brought within the scope of liability profits accruing from sales of land or interests in land, where the property was acquired within the year in which it was sold or the four years preceding, and profits from sales of shares bought during the year of sale or the two previous years, and profits from the sale of any other personal property of the value of £50 or over, bought during the year. Provision is also made for a set-off of losses. In New Zealand profits derived from the sale of land are taxable not only if the tax-payer makes a business of dealing in land, but also if he acquired the land for the purpose of selling it at a profit. In the

1 [1892] A.C. 150.

2 [1894] 31 Sc. L.R. 630.

Commonwealth of Australia and in South Australia and New Zealand fines and premiums on the granting or renewal of leases are deemed to be income for taxation purposes. In Western Australia, though there is no express provision such as those in the Acts of the Commonwealth and of South Australia and New Zealand, the Solicitor-General has advised that a cash premium received by a lessor from a lessee on the granting or renewal of a lease is in the nature of rent, and taxable as income, and a Court of Review in Queensland has given a similar decision. Under the Commonwealth Act 5 per cent. of the capital amount of a retiring allowance, or gratuity, which is paid in a lump sum, is taxable. In Queensland, if any payment is made in respect of a life insurance policy during the life-time of the assured, so much of such payment as is equal to the aggregate amount of premiums paid since the passing of the Income Tax Act, plus simple interest at 5 per cent., is deemed to be income of the holder for the year of payment.

Exemption Limit for Small Incomes.—In all the income tax laws under consideration there is a fairly high exemption limit, as will be seen from the following table:

State.	Exemption Limit.	State.	Exemption Limit.
Commonwealth of Australia	£156	Tasmania (unmarried persons)	£100
New South Wales	250	Tasmania (married person; widower or widow having a child under sixteen dependent)	125
Victoria	200	New Zealand	300
Queensland	200	Union of South Africa	300
South Australia	200	Prince Edward Island	100[1]
Western Australia	200	British Columbia	200

In the Union of South Africa, when the income tax was originally introduced by the Act of 1914, it applied only to income exceeding £1,000. The necessity, however, of finding additional revenue for war purposes led to the introduction of an amending Act of 1915, which, *inter alia*, reduced the limit of exemption to £300.

[1] The exemption of £100 in Prince Edward Island applies only where the income is derived from the tax-payer's wages, or salary from employment, or from his own actual manual labour. (In the case of Prince Edward Island and British Columbia dollars have been converted at the rate of 5 to the £.)

In many of the Australian States the exemption limit has been frequently altered in recent years. Thus, in Victoria the limit under the original Act of 1895 was £200, for 1903 it was reduced to £125, for 1904 it was raised to £150, for 1905 and 1906 to £156, and for 1907 to £200, at which figure it has since remained. It is understood that the South Australian Budget proposals for the current year contemplate a reduction of the exemption limit to £156.

Abatements.—In this section reference will be made not only to what is usually understood by "abatement" in our income tax terminology (*i.e.* a sum allowed as a deduction from total income before calculating the tax at the rate or rates in force), but also to special allowances in respect of children and for life insurance premiums. The former class of deduction is really one method of producing a certain degree of progression in the tax, but it will be convenient to treat it separately from the subject of progression by graduated rates of charge.

In many of the income taxes dealt with the amount of income given in the table above as the exemption limit is allowed as a deduction from all incomes, thus producing a progression considerable at first, but becoming slight when large incomes are reached. This is the case in New South Wales, Queensland, South Australia, Western Australia, New Zealand, and British Columbia. In Victoria, where the exemption limit is £200, an abatement of £150 is allowed from incomes between £200 and £500, while in the case of incomes above £500 the whole income is taxed. In Tasmania, when the taxable amount of income is not less than £100 and is less than £400, an abatement is allowed according to the following scale:

Taxable Income not less than	But less than	Abatement Allowed.
£100	£110	£70
110	125	60
125	150	50
150	250	40
250	350	30
350	400	20

Under the Commonwealth Act an abatement of £156 is allowed in the case of income from personal exertion, if such income does not exceed £500, while if it exceeds £500 the abatement is £156 less

£3 for every £10 above £500. In the case of income from property the abatement is £156 less £2 for every £5 by which the income exceeds £156. In the case of mixed incomes, where the aggregate deductions so calculated would exceed £156, £156 is allowed, and this is apportioned between income from personal exertion and income from property in the proportion that these incomes bear to each other.

In the Union of South Africa £300 is deducted from all incomes up to £24,300 ; but, in the case of incomes exceeding the latter sum, the whole amount is taxable. In Prince Edward Island £100 is allowed as a deduction from incomes derived from wages or salary or actual manual labour between £100 and £240, but the whole amount of incomes above £240 is taxable. In New South Wales, Queensland, and Tasmania the deductions referred to in this paragraph are made as far as possible against income from personal exertion ; in Victoria and South Australia the opposite is the rule. In Queensland, South Australia, and New Zealand the deductions are not allowed to absentees.

Allowances in respect of children are found in a number of cases. In New South Wales an allowance of £50 in respect of each child under eighteen was introduced by the Income Tax Act of 1911, and this was continued by the Income Tax (Management) Act, 1912. In Tasmania the Land Tax and Income Tax Act, 1910, provided that every tax-payer, the taxable amount of whose income is under £150, shall be entitled to a deduction from the tax payable by him of 2*s.* 6*d.* in respect of each child under the age of sixteen resident with and dependent on him. In no case, however, must the tax to be paid be reduced to a sum less than 2*s.* 6*d.* The Land Tax and Income Tax Act, 1912, extended the scope of this allowance by substituting £350 for £150 as the income limit. In New Zealand an Act of 1913 provided for a deduction by way of special exemption of £25 for every child not exceeding five in number under sixteen, and dependent on the tax-payer ; but this deduction cannot be claimed where the total income from all sources of the father and mother together exceeds £425 per annum, whether such income or any part of it is liable to income tax or not. In Western Australia a sum of £10 is deductible from the income for each child under sixteen resident with and dependent on the tax-payer. The Union of South Africa Income Tax Act of 1915 grants, in the case of tax-

payers whose taxable income does not exceed £500, an abatement up to £20 for each child living and under sixteen years of age at the commencement of the year of assessment. Under the Australian Commonwealth Assessment Act an allowance of £13 for each child under sixteen is granted.

Provision for an allowance in respect of life insurance premiums is found in the laws of the Commonwealth of Australia, New South Wales, Victoria, Queensland, Western Australia, New Zealand, the Union of South Africa, and British Columbia. In all these cases, except the Union of South Africa and British Columbia, there is a maximum limit of £50 to the sum which may be allowed. In the Union of South Africa the limit is £25, while in British Columbia it is one-sixth of the gross annual income of the tax-payer. The terms of the Colonial laws relating to the allowance of sums expended by way of provision for the future differ in most cases from those of the English law, not only in the maximum limit, but also in their wider scope. Thus, in Western Australia, allowance may be claimed in respect of any premium or sum paid by the tax-payer on the insurance of his own life or that of his wife, or for a deferred annuity, or *other provision for his wife and children*. In the case of *W. Siebenhaar* v. *The Commissioner of Taxation*,[1] a tax-payer purchased a property in the name of his wife, and arranged with a third party to advance the money, agreeing to repay the puchase-money by an annuity of £40. The annuity of £40 was held to come within the scope of the term "other provision for his wife," the term not being construed as limited to things *ejusdem generis* with insurance or deferred annuities. The terms of the Commonwealth and of the New South Wales laws on this point are similar. In South Africa allowance may be claimed in respect of life or accident or sickness insurance premiums. South Africa, in addition to the £25 which may be claimed in respect of such premiums, also allows a further £10 in respect of fees paid to any friendly or benefit societies. In the Commonwealth of Australia, New South Wales, and Western Australia the law includes in the same clause as the life insurance allowance, premiums paid by the tax-payer in respect of any fidelity guarantee or bond which he is required to provide for the purposes of his business, the limit of £50 applying to the aggregate.

[1] Supreme Court of Western Australia, April 5, 1911.

The Commonwealth Act also allows a further sum not exceeding £50 in respect of contributions paid to a superannuation or widows' or orphans' fund, or a friendly society by a tax-payer in receipt of salary, wages, or annuity. In Victoria, in addition to a maximum sum of £50 for life insurance, a further £50 may be claimed by a tax-payer in receipt of salary, wages, etc., who makes any payment into any guarantee or provident fund, such payment being required to enable him to exercise his vocation, or who makes any payment into any superannuation, sustentation, or widows' or orphans' fund. The New Zealand Finance Act for 1915 has sanctioned an allowance for contributions not exceeding £100 to the National Provident Fund, superannuation funds, or the insurance fund of any friendly society.

An interesting and unusual allowance was introduced in Victoria in 1907. S. 9 of the Income Tax Act of that year provides that " in estimating the income for any year of any tax-payer liable to tax, there shall be deducted from the gross amount of such tax-payer's income any gift of any sum over £20 paid by him during such year to or for any free public library, or any free public museum, or any public institution for the promotion of science and art (including working men's colleges and schools of mines), or any public university, or any public hospital or public benevolent asylum, or public dispensary, or any women's refuge or ladies' benevolent society, or miners' benevolent fund, whether any such library or other institution is or is not in existence at the time of such gift. Provided that such public library or museum or other public institution is situated within Victoria." The Commonwealth Act has followed this precedent by allowing as a deduction gifts exceeding £20 each to public charitable institutions in Australia. It also grants an allowance for certain war fund contributions.

Rates of Charge. Graduation and Differentiation.—In all the cases under consideration, except Prince Edward Island, the ordinary rate of charge for individuals is progressive, and in six cases differentiation is introduced by a heavier rate being imposed in respect of incomes from property than in respect of incomes from personal exertion. In the systems which have differentiation, the differentiation continues throughout the whole range of income instead of stopping at a certain figure, as in the English system. In New South Wales, in the case of mixed incomes the earned and unearned

portions are aggregated. In the other cases in which there is differentiation, income from personal exertion and income from property do not appear to be aggregated, the tax in each case being calculated separately according to the appropriate scale of rates. In Tasmania, though in the lower ranges of income, income from business is charged at a lower rate than income from property, a point is reached at which a higher rate comes into operation in respect of the former. A statement of the rates applicable to individuals in the various States is given below.[1] The taxation of companies will be separately dealt with in a later section, but it should be stated in the present connection that where companies are taxed on their whole profits, the income from dividends in such companies is not again chargeable in the hands of the shareholders, and that this exemption and the exemption of some other classes of income must of course have an important bearing on the real operation in individual cases of the graduated scales given. It is also essential to note that, in applying the rates shown, the allowance of the abatements referred to in an earlier paragraph must be taken into account, and that in many of the scales of charge the rates apply not to the whole income, but only to the portions of the income within the corresponding steps of the scale.

Commonwealth of Australia.—(*a*) Income from personal exertion. (1) For so much of the taxable income as does not exceed £7,600, the rate of tax may be calculated from the formula $R = \left(3 + \frac{3}{800}I\right)$, where R = rate of tax in pence per £, and I = taxable income in pounds sterling. (2) For every £ in excess of £7,600, the rate is 5*s*.

(*b*) Income derived from property.[2] (1) For income not exceeding £546, the rate is given by the formula $R = \left(3 + \frac{I}{181{\cdot}07}\right)$. (2) For income exceeding £546 but not exceeding £2,000, the rate is given by the formula $R = -\frac{3{\cdot}2}{3}\left(\frac{I}{1000}\right)^2 + 11{\cdot}6\,\frac{I}{1000}$. (3) For income exceeding £2,000, the method of calculation is as

[1] It is understood that increases in the rates in Queensland and South Australia are proposed under the Budgets for the current year.

[2] The following figures may be given as examples of the rates of tax. Taxable incomes £600, £1,000, £2,000, £3,000, £5,000, £6,000. Respective average rates in pence per £, 6·576, 10·533, 18·933, 25·8944, 36·5233, 40·2222.

follows: For so much as does not exceed £6,500, the rate can be obtained from the formula

$$R = \tfrac{1}{30}\left(\frac{I}{1000}\right)^3 - 1\tfrac{1}{15}\left(\frac{I}{1000}\right)^2 + 12\tfrac{7}{12}\left(\frac{I}{1000}\right) - 5 + 5\tfrac{8}{15}\Big/\left(\frac{I}{1000}\right).$$

For every £ in excess of £6,500, the rate is 5*s*.

New South Wales.—(*a*) Where the income chargeable does not exceed £700, the tax is 8*d*. in the £ on the amount of such income, with an addition of one-third of 8*d*. on such of the income as is derived from the produce of property.

(*b*) Where the income chargeable exceeds £700, tax is payable according to a graduated scale of seven steps, as follows: On the first £700, 8*d*.; on the next £1,000, 9*d*.; on the next £1,000, 10*d*.; on the next £2,000, 11*d*.; on the next £2,000, 1*s*.; on the next £3,000, 1*s*. 1*d*.; and on all further income 1*s*. 2*d*., with the addition in each case of one-third of the respective rates shown on such of the income as is derived from the produce of property. In calculating the tax, income from personal exertion is taken into account first.

An Act assented to on December 28, 1914, added 3*d*. in the £ to all the above rates.

Victoria.—A Victorian Act of December 30, 1914, imposed the following rates for the year 1915, and for each of the years 1916, 1917, 1918, and 1919:

1. For the year ending December 31, 1915, for income from personal exertion the rates are 3*d*. for every £ of the taxable amount up to £500, 4*d*. for every £ over £500 and up to £1,000, 5*d*. for every £ over £1,000 and up to £1,500, and 6*d*. for every £ over £1,500. For income from property the rates are double those for income from personal exertion.

2. For the years 1916 to 1919, for income from personal exertion not exceeding £500 the rate is 3*d*. in the £. For such income exceeding £500 the scale is the same as for 1915, with the addition of 1*d*. to the tax in each step (*i.e.* 4*d*. for every £ up to £500, and so on). For income from property the rates are double those from income from personal exertion.

Queensland.—(*a*) Income from personal exertion. Not exceeding £500, 6*d*. in the £; exceeding £500 and not exceeding £1,000, 6*d*. in the £ on the first £500 and 7*d*. on the balance; exceeding £1,000

and not exceeding £1,500, 7*d.* in the £ on the first £1,000 and 8*d.* on the balance; exceeding £1,500, 8*d.* in the £.

(*b*) Income the produce of property, 9*d.* in the £.

Persons not domiciled in Australia are charged at a flat rate of 1*s.* in the £.

South Australia.—For income from personal exertion the rates are 4½*d.* in the £ up to £800, and 7*d.* in the £ on the excess. For income from property the corresponding rates are 9*d.* and 1*s.* 1½*d.*

Western Australia.—On the first £500 of taxable income, 4*d.* in the £; on the next £250, 5*d.*; on the next £250, 6*d.*; on the next £500, 7*d.*; on the next £500, 8*d.*; on the next £1,000, 9*d.*; on the next £1,000, 10*d.*; on the next £1,000, 11*d.*; and on the balance 1*s.* In the case of persons who have not been resident in Australia during any part of the year preceding the year of assessment, and who have not been absent on the public service, a surtax of 50 per cent. of the rates given is chargeable.

Tasmania.—On income represented by prizes in a lottery authorised by law in Tasmania the rate is 1*s.* 6*d.* in the £.

For other income the rates are as follows:

1. Income from business. Under £150, 3*d.* in the £; £150 and under £250, 4*d.*; £250 and under £350, 4¾*d.*; £350 and under £400, 5¼*d.*; £400 and under £700, 5½*d.* in the £ on the first £400 and 6½*d.* on the balance; £700 and under £900, 5½*d.* in the £ on the first £400, 6½*d.* on the next £200, and 7½*d.* on the balance; £900 and over, 5½*d.* in the £ on the first £400, 6½*d.* on the next £200, 7½*d.* on the next £200, 9½*d.* on the next £200, 11½*d.* on the next £500, 1*s.* 1*d.* on the next £500, and 1*s.* 3*d.* on the balance.

2. Income from property. Under £250, 8*d.* in the £; £250 and over, 8*d.* in the £ on the first £250, 10*d.* on the next £150, and 1*s.* on the balance.

New Zealand.—Where the income on which tax is payable does not exceed £400, 6*d.* in the £; where it exceeds £400, but does not exceed £1,400, a duty for every £ of 6*d.* increased by $\frac{3}{40}$ ths of a 1*d.* for every £ in excess of £400; where it exceeds £1,400, but does not exceed £5,600, a duty for every £ of 1*s.* 1½*d.*, increased by $\frac{1}{400}$th of a 1*d.* for every £ in excess of £1,400; where it exceeds £5,600, 2*s.* in the £. For the year 1915–16 these rates are increased by one-third.

Union of South Africa.—(1) On every taxable amount not

exceeding £24,000, the rate is 1s., and as many two-thousandths of a 1*d.* as there are pounds in the taxable amount.

(2) On every taxable amount exceeding £24,000, the rate is 2s. in the £.

(In arriving at the taxable amount in the case of all taxable incomes up to £24,300, a sum of £300 is deducted, so that a "taxable amount" of £24,000 corresponds to a "taxable income" of £24,300. The method of calculation of the tax will be seen from an example: If the "taxable income" is £12,300, the "taxable amount" is £12,000, and the rate in the £ will be 1s. plus $\frac{12000}{2000}$ths of a 1*d.*, or 1s. 6*d.* in all.)

Prince Edward Island.—The rate is a flat one of 1½ per cent.

British Columbia.—Taxable income not exceeding £400, 1 per cent. on the whole taxable income; exceeding £400 and not exceeding £600, 1¼ per cent. on the whole; exceeding £600 and not exceeding £800, 1½ per cent.; exceeding £800 and not exceeding £1,400, 2 per cent.; exceeding £1,400, 2½ per cent.

Companies and Income from Companies.[1]—In an earlier part of this article it has been stated that in some points the Colonial income tax systems are of a character intermediate between the English system on the one hand, and Continental systems, such as the Prussian, on the other. Of this statement the position with regard to the taxation of companies affords a good illustration.

The English system avoids the double taxation of company and shareholder. The company is assessed in one sum on its profits, interest on borrowed capital not being allowed as a deduction. So far as the Revenue authorities are concerned, the destination of the profits is immaterial, no distinction being drawn between sums destined for the payment of debenture interest, dividends on shares, or additions to reserve. The tax is paid by the company, and the distribution of the burden among the individual shareholders and debenture holders is left to the process of deduction. In the hands of shareholders and debenture holders, however, the income derived from the company is not treated as again subject

[1] The remarks in this section, unless the contrary appears, deal with the position where the company has its head office in the State, and the individual tax-payer resides there. Further, there are in various States special provisions relating to particular kinds of companies, particularly insurance and mining companies, and the information given in the text does not necessarily apply to such companies. Space will not permit of these special cases being dealt with in the present article.

to the ordinary income tax, and for such purposes as claims for repayment on the ground of exemption a shareholder or debenture holder is in the same position as if he had personally paid the tax which he is seeking to recover. For the purposes of assessment to the supertax, of course, the dividend or debenture interest must be included in the statement of total income.

Under the Prussian and similar systems shareholder and company are looked on as distinct taxable persons. The company is taxed on its profits, in arriving at which interest on loan capital is allowed as a deduction. In Prussia itself, and in a number of other States, the charge is a graduated one, depending on the amount taxable; but there are instances (*e.g.* Denmark) where companies are charged at a flat rate. The individual shareholder is also taxed according to a graduated scale on his total income, including his income from shares in taxable companies. The double taxation involved is only mitigated by the fact that in some cases a fixed percentage of the company's paid-up capital (*e.g.* 3½ per cent. in Prussia) is allowed as a deduction arriving at its taxable profits. In other cases, however, *e.g.* Saxony and Hamburg, no such allowance is made. In Hesse the position is exceptional, as there companies are charged on their profits, but shareholders are not again charged on their dividends. Income from debenture interest is not in these Continental States doubly taxed, being allowed as a deduction in making the assessment on the company and charged in the hands of the shareholder.

Under the Colonial income taxes companies, as a rule, are taxable as independent entities. In arriving at the assessment on a company, interest on loan capital is excluded from the amount taxable, as in the Prussian system. On the other hand, there is no double taxation of company and shareholder, the list of exemptions from income tax containing almost invariably one in favour of income derived from shares in a company. Under the provisions of the Commonwealth Assessment Act, however (as in New South Wales between 1912 and 1914), the tax-payer is directly assessable on his dividends under the ordinary scale applicable to his income, and the company only on the balance of its profits. As regards debenture interest, the Colonial systems are, unlike the Prussian, not always content to leave the recovery of the tax on such interest to the ordinary process of direct assessment on and collec-

tion from the individual debenture holder, or to allow it to escape in cases where it would fall outside the operation of the ordinary provisions for direct assessment,[1] and there are a number of provisions constituting the company the agent of the debenture holder so far as assessment in respect of debenture interest is concerned. As regards the rate of charge on companies, though there are cases where the company is assessed under a graduated scale depending on the total amount taxable, it is rather more common to find that the tax is at a flat rate. Moreover, though the South African tax is an exception in this respect, the deduction of a certain amount as exempt which is allowed in the case of individuals is not usually allowed in the case of companies.

In the British income tax, though a shareholder in a taxed company is not again charged the ordinary income tax on his dividends, the dividends affect, on the one hand, questions of abatement, and on the other hand they come into consideration for super-tax purposes. The usual practice in the Dominions is different from this; the operation of the graduated scales of charge would not be affected by the amount of a tax-payer's dividends from taxed companies.

Rate of Duty on Companies.—*Commonwealth of Australia.*—1*s.* 6*d.* in the £. *New South Wales.*—1*s.* in the £ (plus 3*d.* added by Finance (Taxation) Act, 1914). *Victoria.*—7*d.* in the £ for 1915, 1*s.* for the years 1916 to 1919. *Queensland.*—1*s.* in the £ on amount distributed as dividends, and 6*d.* on undistributed profits. *South Australia.*—9*d.* in the £ up to £800, and 1*s.* 1½*d.* for every £ beyond. *Western Australia.*—1*s.* in the £. (In this State companies are charged, not under the Income Tax Acts, but under the Dividend Duty Acts.)

Tasmania.—1*s.* in the £.

New Zealand.—Taxable income not exceeding £1,200, 1*s.* in the £. Taxable income exceeding £1,200, and not exceeding £1,600, 1*s.* plus $\frac{1}{200}$th of a 1*d.* for every £ in excess of £1,200. Exceeding £1,600 and not exceeding £5,600, 1*s.* 2*d.* plus $\frac{1}{400}$th of a 1*d.* for every £ in excess of £1,600. Exceeding £5,600, 2*s.* in the £.

[1] In Prussia, persons residing outside the State are ordinarily liable only in respect of income from salaries, etc., from the Prussian Exchequer, or from real property or business in Prussia, so that income from debentures of Prussian companies would not in such cases be legally liable.

Companies are charged as the agents of their debenture holders at a flat rate of 1*s.* in the £. For the year 1915–16 these rates are increased by one-third.

Union of South Africa.—The ordinary scale is applicable and the ordinary abatement of £300 is allowed.

Prince Edward Island.—The income tax appears to be applicable to individuals only. A company may be required to pay tax on behalf of a non-resident shareholder.

British Columbia.—Ordinary companies appear to be liable to the real and personal property taxes, and to the income tax at the same rate as for individuals. Certain classes of corporations (*e.g.* banks, loan and trust and insurance companies, gas and water companies) are taxed on a special basis.

Special Provisions for Taxation of Foreign Companies and Non-resident Traders.—An interesting feature of the income tax laws under consideration, other than those of Prince Edward Island and British Columbia, is the special attention given to securing the taxation of persons (including companies) outside the State, who have business transactions with persons in the State. Provisions enabling assessments to be made in such cases on a basis other than that of actual profits are common. Thus, in Queensland, for a foreign company carrying on in that State insurance business other than life, the taxable income is taken as 25 per cent. of the premiums received on account of Queensland business. A foreign life insurance company is taxable on 25 per cent. of its premiums on ordinary Queensland business, and 15 per cent. of those on industrial business. A foreign company carrying on mercantile business in Queensland may be taxed on the basis of 5 per cent. of the amount of its sales if the profits of the business in the State cannot be otherwise satisfactorily determined.

Where a foreign company or a person absent from Queensland effects sales in Queensland by means of an agent, wherever the contract is made and wherever payment is made, the moneys arising from such sales are deemed to be income accruing to the principal from a business carried on by him in Queensland, and if the taxable amount cannot otherwise be satisfactorily determined, it may be assessed at 5 per cent. of the net amount received from the sales. The agent is assessable, but without prejudice to the liability of the principal.

Foreign shipowners shipping passengers or goods in Queensland may be taxed on 3 per cent. of the amount payable in respect of carriage or freight, and the Commissioners may require the ship to be detained until payment of the duty has been made.

Provisions similar in character, though frequently differing considerably in scope and detail, are to be found in the Acts of all the Australian States, of New Zealand and of the Union of South Africa, and also in the Australian Commonwealth Assessment Act.

Conclusion.—In the foregoing pages it has been necessary to ignore many details, and many minor variations between the terms of the laws of the different States, which though doubtless important in their effect in individual cases do not represent any substantial difference of principle. Moreover, it has not been possible to attempt to show the relative position of the income tax in the financial systems of the States concerned, or to trace the historical development of the taxes, and the relation of particular provisions to special economic or administrative problems. It is hoped, however, that the information given may enable some idea to be formed of the main outlines and characteristic features of the income tax legislation of the Dominions.

NOTES ON CASES.

England.—*Company's Mortgages and Notice.*—The Master of the Rolls' dictum in *In Re Monolithic Building Co., Tacon* v. *The Co.*,[1] "It is not fraud to take advantage of a legal right," would make a good subject for a moot. It is not easy, perhaps, to reconcile it with the time-honoured rules of equity as to notice among competing encumbrancers, but, like all judicial dicta, it must be read and understood in reference to the question before the Court. A company formed under the Companies (Consolidation) Act, 1908, makes a mortgage of its property to A. This mortgage is not registered at Somerset House under s. 93 of the Act. Then the company makes another mortgage of its property to B—who has express notice of the mortgage to A. B registers his mortgage and claims priority over A. Is B's conscience so affected by the notice as to disentitle him to claim such priority? The words of the Act are very precise: an unregistered mortgage or charge "shall, so far as any security on the company's property or undertakings is thereby conferred, be void against the liquidator and any creditor of the company."

The policy of the Act clearly is to provide a register of mortgages and charges by a company, on which persons dealing with the company may rely with confidence as conclusive. Once admit the equitable doctrine of notice—express or constructive—and all security vanishes. As Lord Justice James said in *Edwards* v. *Edwards*,[2] "It would be dangerous to engraft an equitable exception upon a modern Act of Parliament," and he puts the situation with his usual force. "The mortgagee says to the execution creditor [it was there a case of unregistered bill of sale], You are not prejudiced, for you knew of my security. The execution creditor replies, 'I knew that you had a security, but you knew the law as well as I. You knew that if I issued execution your security would be of no

[1] [1915], 1 Ch. 663. [2] 2 Ch. D. at p. 295.

avail as to chattels of which you had not taken possession. I knew that my remedy against those chattels was liable to be defeated by your taking possession before I seized them in execution. You knew that your security was liable to be defeated by my taking them in execution before you took possession.' Both parties stood on their legal rights—neither of them was misleading the other."

Business men will be grateful for *Re Monolithic*.

Gifts in Aid of Secularism.—St. Augustine was once watching some children at play on the seashore making sand castles and channels to conduct the water into their little moats and ponds. "Is not this," he said to himself, "just what I am doing—trying to confine the great ocean of truth within the limits of dogmas and definitions?" It is this feeling—that truth is something larger and deeper than any expression which man can give it in creeds and formularies—which has created the modern spirit of religious toleration so strange to our ancestors and still deplored by many well-meaning people. The arguments and authorities for the old view were marshalled with great force and persistency by counsel in the recent case of *In Re Bowman, Secular Society* v. *Bowman*.[1] There a testator gave all his residuary real and personal estate "upon trust for the Secular Society, Limited, of 2, Newcastle Street, Farringdon Street, London." The Secular Society is a company registered under the Companies Acts as a company limited by guarantee, and its objects, as defined by its memorandum of association, are, *inter alia*, "To promote in such ways as may from time to time be determined the principle that human conduct should be based upon natural knowledge, and not upon supernatural belief, and that human welfare in this world is the proper end of all thought and action." These objects were—it was urged—inconsistent with Christianity, and subversive of all religion and morality, and made the gift illegal and void on grounds of public policy. But the Court of Appeal refused to adopt this view. Lord Justice Pickford admitted, indeed, that the denial of religion, though not in terms an object of the Society, was involved in its memorandum as stated above, and that it was impossible to adopt such tenets without inferentially denying the Divine government of the world and the principles of religion. In old times such sentiments would

[1] [1915] 2 Ch. 447.

undoubtedly have sent their adherents to the pillory or the stake; but the public policy of the seventeenth century is not the public policy of to-day, still less is it the public policy of the fifteenth century. To-day we recognise that truth is our highest quest, and that public policy is not served by persecuting or penalising those who honestly, although mistakenly, as some of us think, would propagate their own views.

Gamaliel's advice—to leave things alone—is still sound.

"Occupation" by the Grantor of a Bill of Sale.—The bill of sale is the security to which the hard-driven householder naturally turns in a financial crisis; and the legislature long ago came to the conclusion that it was necessary, for the protection of creditors, to establish a system of public registration of such securities. To make such a system effective, the first thing was to enable persons searching the register to identify the grantor, and with this end in view the legislature has required an affidavit to be filed with the bill of sale, stating the "residence and occupation" of the grantor. Now "occupation" might be thought to be a simple thing. It is as Kelly C.B. once said, the trade or calling by which the maker of the bill of sale ordinarily seeks to get his livelihood. But, like other simple ideas passing through the refracting medium of the legal mind, it has managed to get sophisticated.

"The word 'occupation' in this Act," said Martin B. in *Luckin* v. *Hamlyn*,[1] "means the business on which a man is usually engaged to the knowledge of his neighbours. The notion here is, that such a description should be given that if inquiry be made in the place where the person resides, he may be easily identified." This might do very well if the grantor carried on his "occupation" where he resides, but nowadays a creditor inquiring about the grantor at his residence would probably be told by the neighbours that he was "something in the City." Here was the vice in the bill of sale in *Barron* v. *Potter*.[2] The affidavit ran, "The said William James Potter" (the grantor) "resides at Elysia, Woodham Ferris, in the County of Essex, and is a Baptist minister." In fact, the said William James Potter had had no charge as a Baptist minister for five years. His real "occupation" at the date of the bill of sale was promoting companies at an office in Shaftesbury Avenue; so that the description of Baptist minister was useless for purposes

[1] 21 L.T. 366. [2] [1915] 3 K.B. 593.

of identification. It failed, the Court of Appeal held, to satisfy the requirements of the Act.

It must not be forgotten that the grantor of a bill of sale is under a great temptation to save his credit by concealing his identity.

E. M.

Australia.—*Corporations, Sole and Other.*—Cheques drawn in Queensland on a local branch of the Commonwealth Bank of Australia are not exempt from State stamp duty, merely because the bank is constituted by a Commonwealth statute: *Heiner* v. *Scott.*[1] To arrive at this decision it was necessary to refer to the nature of the bank's constitution, and attention was called to the singular circumstance that the Commonwealth Bank Act, 1911, simply enacts that the bank "is hereby established," and is made "a body corporate with perpetual succession and a common seal," but without any corporators. The Chief Justice expressed himself as being unable to "quite understand" this. There is a somewhat analogous and anomalous provision in another Commonwealth statute,[2] by which the Commonwealth itself is to "be deemed to be a corporation sole."

Bankers and Negligence: Savings Banks.—The Australian Bills of Exchange Act, 1909, is, like most other similar statutes throughout the Empire, for the most part a transcript of the English Act of 1882 and its amendments. Cases under the Australian Act are therefore of value in nearly every part of the Empire. The High Court of Australia has recently had before it a case which by the practitioner who travels beyond the English reports may be noted under (say) such a case as *Morrison* v. *London County and Westminster Bank.*[3] The Australian case is *State Savings Bank of Victoria (Commissioners)* v. *Permewan, Wright & Co.*,[4] and one of the points dealt with was the question whether sufficient "negligence" had been shown in the collection of crossed cheques for a customer to disentitle the bank to the statutory protection under the enactment corresponding with s. 82 of the English Act of 1882. Another point —and one in which the actual decision is possibly more useful— was whether a savings bank, which did not usually collect cheques

[1] 1914, 19 C.L.R. 381.
[2] Property for Public Purposes Acquisition Act, 1901, s. 50.
[3] [1914], 3 K.B. 356.
[4] 1914, 19 C.L.R. 457.

for customers or pay their cheques in the ordinary way, was a "banker" within the meaning of s. 82. The High Court decided (by a majority of four to one) that the savings bank concerned was such a "banker." In *Ex parte Coe* [1] Lord Justice Turner thought that a company or savings bank which "did not honour cheques payable on demand and drawn upon themselves" were not bankers in the ordinary sense.

Income Tax: Source of Income.—When is income "derived from a source outside" a particular territorial jurisdiction? Most of the income-tax legislation of the Empire has (it is believed) some reference to income enjoyed in, but obtained outside the jurisdiction, and an Australian case [2] on the New South Wales Income Tax Acts deserves notice. An agreement was made in London to supply ore from a mine in New South Wales, and a large sum (£63,000) was paid to the mine-owners on account of the contract. No ore was delivered, and the agreement was by consent rescinded, one term of the rescission being that the £63,000 was to be retained by the mine-owners for their own use. The Supreme Court of New South Wales held by majority that this sum of £63,000 was income "derived from a source outside" New South Wales, and so not taxable in New South Wales. The High Court of Australia, however, reversed this, and held that the sum in question was taxable as being income resulting from the operation of the company "in the taxing country." Damages received as compensation for breach of contract were treated as on precisely the same footing as profits.

Alien Enemy and Purchase-money of Land.—A New South Wales case [3] affords a useful illustration of the effect of the war on enemy aliens who own land in the British dominions. One Machens, a German residing in Germany, was co-owner of some land in New South Wales, the other co-owner being resident in New South Wales. The land had been sold and partly paid for before the war, but not conveyed. Machens had given a power of attorney to a local agent, by whom the sale had been effected. The purchaser now desired to pay the balance of purchase-money and complete. It was held that the registrar was justified in refusing to register the transfer (the property being registered land), and that the purchaser

[1] 1861, 3 D.F. & J. at p. 338.
[2] *In re Meeks* (1915) 15 S.R. (N.S.W.) 107, 19 C.L.R. 568.
[3] *In re White* (1915) 5 S.R. 217.

had probably committed an offence under the local Trading with the Enemy Acts in paying any income to Machen's agent. It was not necessary to decide what was the effect of the war statutes on the power of attorney. There seems, however, little doubt that it had ceased to be operative.

Duty of warning Trespasser.—The principle of *Lowery* v. *Walker* [1] (the dangerous horse case) has been applied in New South Wales to the case [2] of a bicycle-rider being injured by running against a wire put up without warning on land abutting upon a road. The essential feature in each case was that the owner of the land knew that members of the general public were in the habit of using the land, and such persons (though technically trespassers) are not to be misled into continuing their user by being left in ignorance that there is some hidden danger placed there without warning.

Registration of Title.—The case of *Barry* v. *Heider*,[3] in the High Court of Australia, is one of first-rate importance as to the Torrens system of registration of title to land. The principal point for decision was very neatly raised by the facts, this point being whether the interest conferred by a duly executed transfer of land, not yet registered, was so far in the nature of an equitable interest in the land that the transferee could create a charge on the land which should be valid against his transferor, the registered owner. The transfer, voidable in its inception, was eventually set aside as void for gross fraud practised by the transferee. In the meantime the transferee had borrowed money and given his creditor a mortgage over the land. The mortgagee, having taken his security in good faith, claimed that his mortgage should be a charge as against the registered owner notwithstanding the avoidance of the transfer. This depended on whether the unregistered transfer, being voidable only, had conferred on the transferee any actual interest that could be charged. The registration statute enacts that an instrument, until registered, passes no estate or interest in the land. It was contended that an unregistered instrument is "inoperative to create any right with respect to the land itself," and that the fraudulent transfer could confer nothing more than a mere personal right of action on the transferee. But it was held that the transferee had a right or claim to registration, which was an equitable right, not

[1] 1911, A.C. 10.

[2] *Holliday* v. *Hewitt* (1915) 15 S.R. 257.

[3] 1914, 19 C.L.R. 197.

distinguishable for practical purposes from the equitable estate of ordinary English law, and capable of being assigned or charged as if it were an actual right of property. This accords with the principle that has generally been acted on in the State Courts of Australia. So in those parts of Canada that have adopted the Australian system; the same principle seems to have been acted on some twenty years ago by the Supreme Court of Canada.[1]

What is "Land Tax"?—The High Court of Australia has decided (affirming the State Court) that a rate imposed by the city of Sydney on the unimproved capital value of land is not a "land tax."[2] The case arose on the construction of a lessee's covenant to pay all rates and taxes "except land tax," and it was held that the exception referred only to "taxes on land directly imposed by a legislature having power to impose them." The contention on the lessee's part was that the exception covered an assessment or imposition on unimproved capital value, on the ground that this was, as distinguished from an assessment on annual value, a "land tax." There is certainly a possible ambiguity which the practitioner outside Australia may well take care to avoid.

Refusal to Register Transfer of Shares.—A useful case in company law is *Manning River Co-operative Dairy Co.* v. *Shoesmith*, decided by the High Court of Australia.[3] The articles made shares transferable "only at the discretion of the directors." The directors refused to register a transfer which was made merely to increase the transferor's voting power, and gave as their reason that "vote splitting" was intended. The Court held (reversing the Court below) that the directors' refusal was justifiable. Apparently all the relevant English cases were referred to, either in the arguments or judgments.

JAMES EDWARD HOGG.

India.—*Guardianship.*—In British India there is much litigation arising out of the relationship of guardian and ward.

Disputes as to what is treated in India as the right, but which is of course the duty of guardianship, are frequent. For many years the Legislature has endeavoured to compel persons claiming such right

[1] *Jellett* v. *Wilkie* (1896) 26 Can. S.C.R. 282.
[2] *Solomon* v. *New South Wales Sports Club* (1915) 19 C.L.R. 698.
[3] 19 C.L.R. 714.

to obtain the sanction of the Courts by an appointment as guardian or by a declaration of right to be guardian.

Act 8 of 1890 consolidated and amended the law relating to guardians and wards. Besides making provision for the appointment of guardians, it to some extent declared the rights and the duties of persons having the custody of infants or their estates by virtue of the personal law to which they were subject.

S. 25 of the Act gives to the Court power to order and enforce the return of the ward to the custody of his guardian. The Bombay High Court in *Dayabhai Raghanathdas* v. *Bai Parvati* [1] has held that this section can be used in aid of a guardian who has no appointment from the Court but is the natural guardian of the minor according to Hindu law. This is a useful decision. In the towns of Calcutta, Madras, and Bombay the natural guardian can enforce his rights by an application under s. 491 of the Code of Criminal Procedure; but that section has no application to cases outside those towns. The Bombay decision practically gives to natural guardians throughout India rights similar to those enjoyed by them in the Presidency towns.

Legal Transactions with Women.—A recent decision of the Judicial Committee (*Padarath* v. *Ram Narain Upadhia* [2]) illustrates one of the difficulties in which the Courts in India are placed when dealing with the affairs of ladies who, according to the custom of their country, are secluded in the *zenana*.[3] Many decisions have shown that the greatest care must be taken to prevent them from being defrauded by dishonest relations or servants; but, as many of them possess considerable estates, transactions to which they must be parties are occasionally necessary. The Transfer of Property Act, s. 59, requires deeds of mortgage for sums over Rs. 100 to be attested by at least two witnesses. In the case in question, the lady was behind a curtain, the attesting witness saw her hand sign the document, and he recognised her voice. This was held to be sufficient.

In many cases where the witnesses remain outside the curtain, the difficulties of identification are insurmountable.

E. J. Trevelyan.

South Africa.—*Arbitration.*—In *Dickenson and Brown* v. *Fisher's*

[1] [1915] I.L.R. 39 Bom. 438.
[2] [1915] L.R. 42 I.A. 163.
[3] Female apartments of a house.
[4] Government of India Act 4 of 1882.

Executors [1] the Appellate Division of the Supreme Court of South Africa gave another instance that English decisions may be a guide for the South African Courts, but do not establish incontrovertible points of law.

The Natal Provincial Division had decided that an award made by an umpire under an arbitration clause in a partnership agreement between the parties should be made a rule of Court, notwithstanding the appellants' objection that the award was bad on the ground that it contained a mistake of law which was apparent on the face of the award itself. The Natal Arbitration Act [2] is practically the same as the English Arbitration Act, 1889.[3] In Art. 18 (similar to Art. 11 of the English Act) the Natal Act provides that "where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set the appointment or award aside."

The party aggrieved by the decision of the Natal Court contended in their appeal to the Appellate Division of the Supreme Court that the words of Art. 18 included under misconduct of the arbitrator or the umpire the fact that he had made a mistake of law on the face of the award. They argued as follows: the Natal statute is taken over from the English Act; in the English Courts it has for very many years been accepted as law that an arbitrator who has made a mistake of law appearing on the face of the award was guilty of misconduct [4]; in the English Act the word "misconduct" was employed in a special sense as covering such an act on his part; and consequently the South African Courts should place upon the word "misconduct" the same meaning as is given to it in the Courts of England.

The case was argued before a full Court. In a most lucid judgment delivered by Sir W. Solomon, J.A., the Court rejected the argument of the appellants. The learned judge reviewed the history of the English doctrine at the hand of the various decisions delivered since 1791,[5] and he pointed out the remarkable fact about these decisions, viz. that the rule that an award can be set aside on the

[1] [1915] A.D. 166.
[2] No. 24 of 1898.
[3] 52 & 53 Vict. c. 49.
[4] *Hodgkinson* v. *Fernie*, 27 L.J., N.S., C.P. 66; *British Westinghouse Co.* v. *Underground Electric Railway Co.* (1912) A.C. at pp. 686.
[5] *Price* v. *Williams*, 1 Ves. Jun. 365.

ground of a mistake of law appearing on the face of it has grown up alongside of the statutory provisions on the subject of arbitration. Such was not the case in South Africa.

"It is impossible to say," to quote Sir William's own words, "that there has been here, as in England, a series of decisions extending over very many years embodying the principle that the Court has power to go outside of the statute and set aside an award on the ground that the arbitrator has made a mistake of law apparent upon the face of the award. . . . As far as I can find, no case has yet arisen in which the point has been raised and determined . . . it is in my opinion impossible for us to say . . . that the rule relied upon by the appellants is part of the well-established law of this country. Nor do I think that it is matter for regret that this is so, for I share the doubts expressed by William and Miller JJ., in the case of *Hodgkinson* v. *Fernie*, as to the wisdom of introducing any such principle into the law."

It is certainly no matter of regret that independence of thought remains a principal characteristic in those on whom rests the development of legal principles in South Africa.

Race Distinctions.—An interesting question regarding the powers of municipalities to introduce into their by-laws discriminations between white and coloured persons was decided by the Transvaal Division of the Supreme Court in *Williams and Adendorff* v. *Johannesburg Municipality.*[1]

In the Transvaal Ordinance No. 2 (private) of 1906, "to consolidate and amend certain laws relating to the municipality of Johannesburg," it was provided in s. 31 that "the sole and exclusive right was thereby given to the Council to establish, maintain, and work electric or mechanically worked tramways for public use within the muncipality," while s. 41, sub-sec. 65, gave them power to make by-laws or regulations for licensing and regulating locomotives, tramcars, omnibuses, and all private vehicles. This statute, except certain sections (including s. 31, but not s. 41, sub-sec. 65), was repealed by the Local Government Ordinance, No. 9 of 1912, s. 176 of which enables by-laws to be made for regulating the use of tramways and (*inter alia*) for "appointing separate tramcars for the use of white persons and of natives or Asiatics or other coloured persons respectively and restricting the use of such cars to such persons and

[1] [1915] T.P.D. 106.

prohibiting the use of any tramcars by persons who are not respectably dressed or well conducted." S. 184 provides that " by-laws and regulations made in respect of the area of jurisdiction of any local authority under any law repealed by this Ordinance shall from the commencement of the Ordinance be of the same force and effect, within such area, as if they had been made under this Ordinance."

The by-laws made by the Council in virtue of their powers under the Ordinance of 1906 give the conductors of tramcars a general power to exclude dirty and offensive persons. By-law 33 provides that " the Council may at its discretion set apart and license any carriage or portion of a carriage for the use of passengers of European race only, and may further set apart and license any carriage or portion of a carriage for the use either of passengers of Asiatic race or of coloured passengers only, or for the exclusive use of both coloured persons and persons of Asiatic race," and makes it an offence to enter or travel upon or attempt to enter or travel upon " any carriage or portion of a carriage set apart and licensed by the Council for a class of passengers to which he does not belong, except persons holding special permits and domestic and personal servants travelling with their master, provided always that nothing in the by-law shall be deemed to release the Council of any obligation that may attach to it to provide reasonable accommodation for every class of passenger."

The rules for conductors framed under the authority of the Council forbid conductors to allow coloured persons (except domestic servants subject to certain conditions) to travel on ordinary service cars.

On Sunday, February 8, 1914, the appellants, who are Cape coloured men, boarded a tramcar of the Johannesburg municipality which was an ordinary service car. They tendered the legal fare to the conductor, who refused to accept the same, and ordered them to leave the car. They refused, but were almost immediately thereafter ordered to leave by an inspector, who informed them that, being coloured persons, they had no right to travel on the tramcar with white persons. They were then put off the tramcar.

The two coloured men then applied to the Witwatersrand local Court for an interdict restraining the Johannesburg municipality or its servants from refusing to allow the above-named applicants to travel on any of its tramcars from place to place within the municipality of Johannesburg. The application was refused on the ground

that s. 176 of the Local Government Ordinance was not *ultra vires* the Council and that it specially conferred the power upon the municipality to make the by-laws they have, and that the by-laws empowered the municipality to do what it claimed the right to do.

On appeal to the Transvaal Provincial Court (de Villiers J.P., Bristowe and Curlewis JJ.) this decision was reversed. In the first place, it was held that the validity of the by-laws which were made in February 1906 had to be tested according to the provisions of the Johannesburg Municipal Ordinance, 1906, under which they were made and published.[1] In the second place, it was held that though ss. 31 and 41 of the 1906 Ordinance gave the municipality power to make by-laws and regulations for regulating the working of tramways and tramcars, and impliedly power to make regulations as to the manner in which tramways and tramcars may be used by members of the public, such did not include authority to the Council to differentiate between classes of the community or to discriminate between the European (white) section and the coloured and native sections of the community as to the tramcars or carriages or portions thereof which may be used by one or other section, as long as such use is made of them as is proper and in accordance with the purposes of the service. The tramways authorised are to be "for public use." A tramway service for white persons only would hardly be one "for public use."

S. 176 of Ordinance 9 of 1912 does not contemplate exclusion of coloured persons, but segregation. Such provisions could hardly be considered to come within the scope of s. 85 of the South Africa Act. That section gives the Provincial Councils power to legislate "in relation to matters coming within the following classes of subjects—that is to say (*inter alia*) municipal institutions." Under that power they can create bodies for the management of municipal affairs, and can endow them with all powers necessary to the discharge of the functions of local administration, but it does not enable them to vest in the local authority extraneous or fancy powers which form no part of a municipality *qua* municipality. "The test seems to be" as Bristowe J. puts it, quoting *Attorney-General for Ontario* v. *Attorney-General for the Dominion*),[2] "not so much what powers are

[1] *Germiston Municipality* v. *Rand Cold Storage Co., Ltd.*, 1913, T.P.D. 530.
[2] [1896] A.C. 348.

in fact given to municipalities, as what powers are requisite for the purposes of local government.

The decision reminds one of the legislation in the United States of America, where in most States it has been distinctly laid down that no citizen of the State shall, by reason of race, colour, or previous condition of servitude, be excepted or excluded from the full and equal enjoyment of the accommodation of inns, hotels, restaurants, common carriers, or conveyances. So the constitution provides specifically that the right of all citizens to travel upon all public conveyances shall not be infringed.[1]

Why should it be otherwise? As Bristowe J. remarks: "Nor does there seem any special reason why persons who dwelt on the eastern slopes of the Ural Mountains should be denied a privilege which would be accorded to the inhabitants of the western slopes."

W. R. B.

[1] Stimson, *American Statute Law* (1886), s. 6,054, and the *Law of the Federal and State Constitutions of the U.S.* (1908) on pp. 131-2.

NOTES.

The Malta Prize Court.—Mr. C. J. Colombos, LL.D. (Paris), writes from Malta as follows:

"Under British rule a Court of Vice-Admiralty has existed in Malta since the time of George III., but the only cases which have been judged in Admiralty Sessions consisted solely, so far as is known, of piratical crimes.[1]

"Under the Naval Prize Act of 1864,[2] the High Court of Admiralty in England was constituted a Prize Court for the whole of the British dominions, all other Courts exercising similar jurisdiction being comprised under the term *Vice-Admiralty Prize Courts*. The Colonial Courts Admiralty Act, 1890,[3] and Malta Ordinance, No. 3, 1892, abolished the Vice-Admiralty Court and conferred Admiralty jurisdiction upon the Commercial Court as part of its ordinary jurisdiction. This enactment was repealed by the Prize Courts Act of 1894,[4] which provided that Commissions may be issued by His Majesty or the Admiralty for the constitution of Prize Courts in any British possession. On August 17, 1899, a Warrant of the Commissioners for executing the Office of Lord High Admiral of the United Kingdom was, in pursuance of His Majesty's Letters Patent of July 10, 1899, issued to the Commercial Court of Malta requiring it, upon any Proclamation being made by the Vice-Admiral of the Colony that war had broken out between His Majesty and any foreign State, to take cognisance of and judicially to proceed in prize matters. The Malta Prize Court which has thus been constituted on August 8, 1914, on the occasion of the outbreak of hostilities between Great Britain and Germany, in virtue of the Proclamation issued by the Governor of the Colony as Vice-Admiral,[5] is most probably the first Maltese Court that has ever been called upon

[1] See trial for piracy of Charles C. Delano, Brig *William*, January 26, 1820.
[2] 27 & 28 Vict. c. 25.
[3] 53 & 54 Vict. c. 27.
[4] 57 & 58 Vict. c. 39.
[5] *Malta Government Gazette*, No. 5,628, August 13, 1914.

to exercise prize jurisdiction. It should be pointed out that this jurisdiction is not exercised as part of the ordinary jurisdiction of the Commercial Court, or of that Court as Colonial Court of Admiralty, but as a Court duly vested with jurisdiction in prize matters by the Prize Courts Act, 1894, above referred to. All appeals from any decree or order of this Court lie to the Judicial Committee of the Privy Council.

"The different cases which have up to now come before the Malta Prize Court (Dr. A. Parnis, Judge) are numerous, so that it is only possible to note such as have presented novel features or have given rise to points of law not yet decided, so far as can be ascertained, in other British Prize Courts.

"*Enemy Steamers.*—The *Erymanthos* was the first German steamer seized on August 5, 1914, in the Mediterranean, and brought before this Court. The case of the steamer presented the special feature that the Crown objected to the appearance of the owners on the ground of their being alien enemies, and consequently having no *locus standi.* The learned Judge allowed such appearance on October 27, 1914, being thus the first, I believe, to give such a right to an enemy. According to his Lordship's decision, enemy's property afloat belongs to the Crown, so that the owner of such property appearing in a Prize Court is in the position of a claimant for redress against the action of the Crown. The Prize Court rules, 1914, foresee the possibility of an appearance and claim being entered by an alien enemy, and subject such appearance to the filing of an affidavit. If the affidavit shows that an alien enemy, who could not otherwise be heard, is entitled under any international agreement (in this case the Hague Convention of 1907) to any protection or relief, he must be allowed to appear in order to defend and uphold any such right to which he conceives that he is entitled under such agreement.[1]

"In the case of the same steamer, a difficulty arose with regard to the actual place of capture, whether on the high seas, within territorial waters, or in port, and the Judge was called upon to decide the meaning of the words in the original French text, *navire entrant dans un port ennemi*, while still ignorant that hostilities had broken out.[2] His Lordship ruled that the words must be interpreted as

[1] Cf Sir S. Evans's decision *re* s.s. *Möwe*, November 9, 1914.
[2] Art. 1, Convention No. VI. of the Hague Conference of 1907.

applying to ships to which permission was granted to enter, or which had actually entered, the port.[1]

"*Goods consigned to Enemy Subjects.*—In order to determine the ownership and disposal of the goods, it was evidently necessary to see whether such ownership and disposal had passed to the purchaser or was still retained by the vendor in cases where the goods had been placed on board the ship, but the price had not been paid. The Judge held that a sale is governed by the proper law of the contract or by such law as the parties may explicitly or implicitly desire that the contract should be governed by, such law becoming the proper law of the contract, *lex contractus*. For sales perfected in Belgium, Belgian law was to be applied, so that under a contract c.i.f., the ownership and disposal passed to the purchaser, subject to the lien of the unpaid vendor. If the purchaser is an enemy subject, the goods are seized and condemned, and no lien can hinder the action of the Crown. A large quantity of goods was thus condemned under similar contracts, the purchasers being persons residing in enemy territory, although the price of the goods had not been paid to the vendor and the shipping documents were still in the sellers' hands or had been refused by the buyers.[2]

"*Goods consigned to Non-enemy Subjects.*—It was held that in the cases of goods having an enemy origin and consigned to a British, allied, or neutral subject, under a contract c.i.f., although the property passed to the buyer, if the price had not been paid before the declaration of war, payment must be made to the Crown, as the goods when restored are put in their original condition, and become subject to all liens. According to his Lordship's judgment, property afloat does not mean exclusively the material thing afloat, but includes all such rights as are inherent in the thing itself, or affect the possession and disposal of the goods. Enemy property afloat, therefore, includes the unpaid price, when the payment of the price is a condition to be fulfilled before obtaining possession of the goods.

"When a sale is made c.i.f., the property under continental law passes to the purchaser, subject always to the lien of the unpaid vendor. If the buyer is a non-enemy subject, then the property is not condemned, but the Crown is substituted to the enemy vendor

[1] Decree condemning s.s. *Erymanthos*, December 14, 1914.

[2] Compare judgment *re* s.s. *Miramichi* (Sir S. Evans, President), November 23, 1914.

and the claim for payment is considered as enemy property afloat.[1] It may safely be asserted that this decision constitutes a novel theory of law among existing Prize Court decrees.

"*Goods with a Neutral Destination on Board Non-enemy Steamers.*—It is a well-known fact that at the beginning of the present war large quantities of foodstuffs were obtained for its armed forces by the German Government through Italy and Switzerland. In the case of an important cargo consigned, according to the shipping documents, to a commercial firm in Switzerland, by transit through Italy, a suspicion arose as to the ultimate destination of the goods, and the learned Judge found it necessary to interpret the Italian and Swiss enactments as regards goods consigned to these countries. The Italian Government, with the evident object of preventing its ports from falling under the provisions of the British Order in Council of October 29, 1914, had guaranteed by a Decree promulgated on November 13, 1914, that conditional contraband on a bill of lading showing an Italian destination would not go to any of the belligerents, the exportation of these goods being forbidden. At the same time, however, the Italian Government declined to assume any responsibility with regard to goods merely unloaded at an Italian port, and having an express foreign destination. Under this law, a suspicion was thrown on all goods bound for Switzerland, so that the Swiss Government found it convenient to enact, by an Order of the Federal Council of Jannary 9, 1915, that on and after January 12, 1915, all grains and foodstuffs would be a monopoly of State, the exportation thereof being prohibited. The learned Judge held, therefore, that all foodstuffs for Switzerland, not expressly consigned to the Swiss Government, were subject to seizure and condemnation.[2] With reference to the question whether the *onus probandi* that the articles of conditional contraband were really destined to the armed forces of the enemy, lay on the Crown or on the claimant, his Lordship held that the innocent destination of the goods had to be proved by the claimant, because in a Prize Court the claimant is the plaintiff who asks for redress against the action of the Crown, and that further, apart from any presumptions laid down in the Declaration of London (which the Judge said had no legal, but only a moral obligation), the claimant should always be able to

[1] Decree of July 12, 1915, on Cargo *ex* s.s. *Erymanthos*.

[2] Judgment given on July 15, 1915, on Part Cargo *ex* s.s. *Venizelos*.

prove the innocent destination of the goods, as he was in a better position than the Crown to show such destination. As regards the interpretation of the term 'goods consigned to order' of the Order in Council of October 29, 1914, the learned Judge ruled that this term should be made to extend also to cargoes with a bill of lading endorsed in blank or showing as a consignee the shipper himself or his agent.

"*The Capitulations Régime.*—The Court had to deal in many cases with the question of Capitulations which were still in force at the time of the seizure of several goods consigned to Egyptian ports. Under His Majesty's Proclamations, it is not the nationality that must be considered, but the residence. Foreign subjects in Egypt with regard to domicile, maintain their domicile of origin. His Lordship held, therefore, that all enemy subjects in Egypt, unless they had been allowed to remain, had a hostile domicile, and not an Egyptian domicile, and that consequently their property was subject to seizure and condemnation."

The Library of the Royal Colonial Institute.—Supplementing the observations in the last number of the Journal,[1] it should be stated that the library of the Royal Colonial Institute possess a considerable collection of books of Indian Law. Among them are the Provincial Gazettes and the Provincial Codes, together with sets of the Law Reports and some legal periodicals. In recent years there have been considerable developments in the legal section of the library, which now contains about ten thousand volumes.

A World Court.—The American Society for Judicial Settlement of International Disputes have published an address by ex-President Taft upon the United States Supreme Court as the prototype of a world court. He directs attention to a too little-known function of the United States Supreme Court, by which it is empowered to decide disputes between States. "The analogy," Mr. Taft claims, "between the function of the Supreme Court in hearing and deciding controversies between States and that of an international tribunal sitting to decide a cause between sovereign nations is very close." There is no domestic law to settle the case, and it has to be decided in accordance with international law just as much as the disputes were between Canada and the United States. For the settlement

[1] Vol. xv. p. 106.

of the difficulties between those two countries the International Joint Commission [1] is already at work on the lines advocated by Mr. Taft. "May we not hope," he asks, "to enlarge its scope and membership, and give its benefits to the world?"

Major A. J. N. Tremearne.—In the last number of the Journal was published an article upon native law and procedure in British West Africa by Major Tremearne,[2] of which the proofs were revised while he was in camp with the Seaforth Highlanders, and a copy sent to him in France, where he was killed on September 25. The Society is also indebted to him for having taken an interest in its work while on a visit to Australia in 1914, with the British Association. He was the son of a Melbourne doctor, and, before proceeding to Christ's College, Cambridge, had received his education in Australia. He went with the first Victorian contingent to South Africa in 1899, where he was wounded, and proceeded on special service to West Africa. There he acquired proficiency in the Hausa language, in which he became a lecturer at Cambridge. Major Tremearne was the author of several works on the Customs of the Hausa people, and held the degrees of M.A., LL.M., M.Sc., and Dip. Anth., besides being a barrister of Gray's Inn.

Tongan Islands Protectorate.—The annual report for 1914 records that "the most important legislative achievement was the reform of the Tongan Parliament. Under the Constitution the Legislative Assembly consisted of all the nobles of the kingdom, an equal number of representatives of the people, and the ministers of the Crown. The membership on this basis comprised about seventy, and in the ordinary course there was only one session in every three years. At a meeting of the Assembly on December 17, 1914, specially convoked, the King of Tonga, in a convincing address from the throne, proposed for consideration that the Assembly should be composed of seven nobles elected by their peers, seven elective representatives of the people, and the ministers of the Crown, numbering seven, or twenty-one members in all, and that the Assembly should meet annually. The proposed reform was agreed to practically unanimously. There can be little question that the substitution of a thoroughly representative legislative body of manageable dimensions meeting annually, in the place of the former somewhat un-

[1] See article by Mr. L. J. Burpee, *supra*, pp. 5–12.
[2] Vol. xv. pp. 95–103.

wieldy Assembly, meeting once only every three years, will mark an epoch in Tongan history and go far in advancing the good government of the Island Kingdom."

The Australian Court of Conciliation and Arbitration.—To the *Harvard Law Review* of November Mr. Justice Higgins, who has been President of the Commonwealth Court of Conciliation and Arbitration since 1907, contributed an account of its working. In the settlement of the minimum wages by the Court the attempt has been made to establish some definite principles, of which the principal is that the employee must have " wages sufficient for the essentials of human existence," which must secure to him " enough wherewith to renew his strength and maintain his home from day to day." A series of supplementary propositions have been enunciated in the decisions of the Court which, it is claimed, " guide parties disputing to friendly collective agreements." The whole survey of the work of the Court and its developments is an important contribution to the literature of the legal relations between master and servant under modern conditions.

The "Titanic" Case.—In an article upon the " International Aspects of the *Titanic* Case " in a recent number of the *American Journal of International Law* (vol. ix. p. 344), Mr. A. K. Kuhn compares the systems of modern law relating to the shipowner's liability, and classifies them under three heads: (1) the French system, or system of abandonment; (2) the German system, or system of execution; (3) the British system, or system of forfeiture. In general terms it may be said that the French system recognises a liability *in personam* the shipowner, but permits him to divest himself of it by abandoning the ship and pending freight. To this group belong France, Italy, the Netherlands, Portugal, Spain, the Latin-American countries, Japan, and the United States. The German Maritime Code [1] makes a sharp distinction in respect of the ship's liability *in rem* and the owner's liability *in personam*. In the United Kingdom, by the Merchant Shipping Act of 1862, modified by that of 1874,[2] it is provided that owners of all ships, British or foreign, shall not be liable to damages beyond certain specified sums. Mr. Kuhn also directs attention to the diversity of law and legislation in permitting the shipowner to limit his liability by contract. Neither in Great Britain nor in Germany is it considered contrary to public

[1] Art. 485. [2] S. 503.

policy to permit the shipowner to exempt himself from liability for the negligent acts of his employees in respect of damage to property,[1] but British law provides that on "emigrant ships" any exemption in a passage ticket is void unless approved by the Board of Trade.[2] In France the Courts of Law adopted what may be termed a *media sententia* in refusing to give effect to absolute exemption clauses, though effect is given to exemption clauses in so far as the ordinary burden of proof is shifted.[3] The United States rule contained in the well-known Harter Act does not prevent shipowners from exempting themselves from liability except in respect of the loading and stowage, custody, care, or delivery of merchandise.[4]

Index to American Statutes.—Mr. G. S. Godard, Librarian to the Connecticut State Library, puts forward, in the annual report of the library, a plea for a standard index, which can be used in connection with the statistics or codes of all the States. There is an index to the federal statutes but there is no comprehensive index to all the statutes other than the annual volume issued by the New York State Library. Such an index, if at all full, would be an enormous undertaking, but Mr. Godard considers that there is "no question as to possibility and desirability of it," and looks to the American Bar Association to carry through the undertaking.

Mothers' Pensions Laws.—To the particulars already given about mothers' pension laws[5] may be added some notes upon their administration drawn from an article in the *American Political Science Review* (August 1915) by Mr. C. Kettleborough, of the Indiana Bureau of Legislative Information.

"The agencies," he writes, "by which the various mothers' pension laws are administered may, for convenience, be divided into two classes: In seventeen States the law is administered by the juvenile court, where one exists, or by the county, district or probate

[1] Abbott, *Law of Merchant Shipping*, p. 612; Schaps, *Das deutsche Seerecht*, Arts. 485, 606.

[2] Merchant Shipping Act of 1894, s. 320 (1) applied to the *Titanic*, and exemption held void in *Ryan* v. *Oceanic Steam Navigation Co. Ltd.*, (1914) 29 T.L.R. 629.

[3] Court of Cassation, Oct. 28, 1903; *Gaz. Pal.* 1904, vol. i. p. 58. Court of Appeal, Lyons, Aug. 6, 1907; *Gaz. Pal.* vol. ii. p. 544.

[4] Act of February 13, 1893.

[5] See "Review of Legislation," 1913, pp. 156–7, and Journal, vol. xv. p. 256.

court, functioning as a juvenile court. In all the other States the execution of the law is entrusted to a quasi-judicial or administrative board."

An analysis of the functions, character, and composition of these agencies discloses certain characteristics, conspicuous among which are the economy effected by the utilisation of existing institutions for the administration of the laws, the lack of centralised control, and the gratuitous services of the members of the newly created boards.

The administration of the law is further hedged about by certain statutory restrictions which the executory agencies are legally bound to observe. These restrictive provisions relate to the eligibility of the mother to receive aid, the express conditions upon which relief is granted, and the age of the child upon the attaining of which public subsidies automatically cease. Practically all of the laws provide that before aid is granted the mother must be physically, mentally, and morally fit to rear her children; the support of the husband must be impossible either by reason of his death, permanent incapacity for work because of physical or mental infirmity, or incarceration in a detention institution; the mother must be an actual resident, and must live with her children; financial aid must actually be imperative to save the children from neglect and enable the mother to care properly for them; and in practically all cases the sources of financial income are rigorously inspected to determine the economic dependence of the mother and children.

The procedure in obtaining relief varies rather widely. In general, application is either made by a mother who is eligible to receive an allowance or by a reputable resident citizen who may be informed about and interested in the case. When the formal application or petition for relief is filed, the granting of an allowance is preceded by and based on an investigation conducted by an agent or officer of the Court or Board. The statements made in the application, the actual home conditions, and the regulatory provisions enumerated in the law are adhered to and observed in ascertaining the relative destitution of the applicant or petitioner. A written report embodying the results obtained is submitted to the Court or Board, and the investigator is usually present to supply any information demanded or to submit his opinion on obscure and controverted matters.

After all the evidence has been heard, weighed, and considered, the Court or Board makes an order accordingly.

If the order is in favour of granting relief, the proper fiscal officer of the State, or of the county, town, or city, appropriates the funds and pays them in conformity with the order.

In most States the allowance is paid directly to the mother, either in monthly instalments or at such times and in such amounts as are indicated in the order of the Court. In a few States, provision is made for the payment of the allowance to an individual or organisation approved by the Court in case the mother is found to be improvident, careless, or negligent.

The amount of the allowance is supposed to be sufficient to enable the mother to care properly for her children or to be equivalent to an amount necessary to maintain them in an institutional home, and in each State the amount is definitely fixed.

The investigations in most States are conducted by probation officers, agents, or visitors appointed by the Court or Board, and the families receiving pensions are supervised by the same persons.

In Missouri, Ohio, South Dakota, and Utah, to prevent the distribution of allowances where they are not actually needed, any tax-payer may file a motion to set aside or vacate an order granting relief. If, on the hearing of such motion, it appears that the grant was injudicious and unwarranted, the Court or Board may discontinue the subsidy.

Empire Parliamentary Association.—In the November addition to the series of articles in *United Empire* dealing with "Kindred Societies—Past and Present," Mr. Howard D'Egville gives an account of the Empire Parliamentary Association, of which he is the honorary secretary. The object of the Association is to provide introduction and hospitality in any self-governing country of the Empire for members visiting from other countries, and also to provide for travel facilities, special information, Parliamentary privileges, meetings amongst members of Parliament for the discussion of matters of mutual interest, and general machinery enabling Parliamentarians both to hold more constant intercourse by visiting other portions of the Empire with a minimum of expense and also to obtain the maximum of useful information they might require to obtain in the time at their disposal. In connection with

the war the Executive Committee have decided to issue certain publications from time to time. The work of the Association is somewhat akin to that of the Society of Comparative Legislation, as well as that of the Royal Colonial Institute.

Obituary.—We much regret to record the loss on October 29 and October 30 respectively, of two old and valued supporters of the Society—Lord Welby and Sir Charles Tupper. It is twelve months ago since the portrait of the latter formed the frontispiece to the volume with the usual biographical notice. It was remarked then that "Sir Charles Tupper had held almost every Government Office open to a Minister of the Crown," and the position which he occupied in Canadian esteem was shown by the removal of his body from his home at Bexley Heath in order that it might be laid with suitable honour in Canadian soil. Lord Welby's services to the community had been rendered in the more prosaic sphere of Permanent Secretary to the Treasury, and, after his retirement from that office, as Chairman of the London County Council. He was an active member of the Society's Executive Committee, where he was always ready to devote the same care and attention to its affairs as in dealing with the millions of the national finance.

As this number is almost ready for the printer there comes the news of the death of Lord Alverstone, formerly Lord Chief Justice of England, who was a supporter of the Society for many years. By readers of the Journal he will be remembered as the contributor of a survey of the London Conference of the International Law Association, and it is in connection with his work on international law both as counsel and arbitrator that he will take his chief place in history.

The Case of Edith Cavell.—Mr. J. M. Beck, one of the leaders of the New York Bar, whose legal survey of the responsibility for the war is widely known, contributed to the *New York Times* an impressive article upon the trial of Edith Cavell. He sums up his review of the facts, so far as they are known, as follows:

"To spare her life a little longer could not have done the German cause any possible harm, for she was in their custody and beyond the power of rendering any help to her compatriots. To condemn any human being, even if he were the vilest criminal, at 5 o'clock in the afternoon and execute him at 2 a.m. was an act of barbarism for which no possible condemnation is adequate.

"Under these circumstances, it would be incredible, if the facts were not beyond dispute, that the request of the United States for a little delay was not only brutally refused, *but that our Legation was deliberately misled and deceived until the death sentence had been inflicted.*

"This makes the fate of Miss Cavell our affair as much as that of the *Lusitania.* And yet we have the already familiar semi-official assurance from Washington that while our officials 'unofficially deplore the act, officially they can do nothing." Concurrently we are told in the President's Thanksgiving proclamation that we should be thankful because we have 'been able to assert our rights and the rights of mankind,' and that this 'has been a year of special blessing for us,' for, so the proclamation adds, 'we have prospered while other nations were at war.'

"I venture to say in all reverence that the God of nations will be better pleased on the coming Thanksgiving Day—which also should be one of penitence and humiliation—if we do a little more *in fact* as well as in words to safeguard the rights of humanity."

The Coming of Age of the Society.—Readers of the Journal may be interested to know that it is just twenty-one years since the Society was started on its career. Many will remember the circumstances of its inauguration. Sir Courtenay Ilbert—Mr. Ilbert as he then was—had recently returned to England fresh from his work as Legal Member of the Council of India. In that country he had made practical acquaintance with systems of law outside that of England, and with legislatures besides that at Westminster. Why—the thought occurred to him—was there no available record of all the legislative activity in our wide-extended Empire beyond the seas? The thought took shape in a paper read at a meeting at the Imperial Institute on November 8, 1894, under the Chairmanship of Lord Herschell, the then Lord Chancellor. Sir Courtenay urged strongly the importance of an annual summary of comparative legislation similar to that published in France by the Société de Législation Comparée. Quoting the words of the Athenians when the Spartans besought them, on Xerxes' approach, not to desert the cause of Greece, "We Greeks are bound together by a common blood, a common tongue, a common religion, and common institutions," he pointed out how everywhere throughout Greater Britain we see similar problems approached in substantially the same

spirit, from substantially the same point of view—colonies and dependencies working on substantially the same lines—lines characteristically different from those on which the Frenchman and the German would naturally act. He also pointed out how institutions of home growth sprang up naturally and spontaneously on Colonial soil, and in that of the United States; how the problems to be met and solved were the same or similar in all the branches of the great Anglo-Saxon race. The address made a strong impression, and the Society was the outcome.

To-day, when the bonds of our vast Empire are being drawn closer, the appeal for such a record of legislation is even stronger. Each State is more and more concerned to know how other States are dealing with political, social, or economic difficulties similar to its own; how they administer justice, reconcile the rights of capital and labour, regulate the liquor traffic, deal with marriage and divorce, with patents, literary and industrial property; how they educate children, reform criminals, reclaim drunkards, control railways, trading companies and merchant shipping. In the mechanism of modern States the capital fact, according to Sir Henry Maine, is the energy of the legislatures. In the British Empire alone there are no fewer than sixty legislatures. In the United States there is almost an equal number. Each of these is working out its own problems in its own way—problems differentiated by local conditions, but often identical in principle.

Looking back over the twenty-one years of the Society's history, Sir Courtenay Ilbert and his coadjutors have every reason to be gratified with its success, and the growing appreciation of its work. More than once the Society has nearly suffered shipwreck: but those perilous times are over. The Dominions and the Crown Colonies have come to its aid, and are giving it generous support. It has won the sympathy of the Foreign Office, the Colonial Office, and the Board of Trade. The number of persons interested in its work is rapidly increasing, not only in the Empire, but in the United States and foreign countries. But let it not be supposed that the Society's ideals are yet realised; much remains to be done. Meantime the newly published Index—long needed—attests the range and variety of topics dealt with by the Society.

Local Correspondents.—The Society is much indebted to the following gentlemen who have kindly undertaken to supply informa-

tion about the objects and work of the Society and to enrol subscribers:

Bahamas.—The Hon. Harcourt Malcolm, K.C.

China.—The Hon. C. G. Lobingier, United States Court for China, Shanghai, China.

Federated Malay States.—Mr. Justice Innes, Judicial Commissioner, Kuala Lumpur.

France.—M. C. Sansas, docteur en droit, 19, Rue de l'Université, Montpellier.

Japan.—J. E. De Becker, Esq., Foreign Board of Trade Building, No. 75, Yamashita-cho, Yokohama, Japan.

Newfoundland.—The Hon. W. R. Warren, K.C., Board of Trade Building, St. Johns, Newfoundland.

New Zealand.—J. Christie, Esq., LL.B., Law Drafting Office, Wellington, New Zealand.

South Africa.—Oswald Pirow, Esq., Box 26, Johannesburg, Transvaal.

South Australia.—G. A. Yuill, Esq., c/o Messrs. Glynn, Parsons & McEwin, Insurance Chambers, King William Street, Adelaide.

Straits Settlements.—A. de Mello, Esq., 1, Raffles Place, Singapore.

A consolidated Index to the fifteen volumes of the Journal has just been published. Applications for copies should be addressed to the Secretary, 3 (North) King's Bench Walk, Temple, E.C.

REVIEWS.

ENGLISH CONSTITUTIONAL LAW.[1]

THIS second edition of Mr. Ridges' book, originally published nine years ago, purports to bring his subject up to 1915. His design is to present "a concise and comprehensive view of British political and constitutional topics, both at home and abroad." This is obviously a wider aim than is generally attempted in studies of the English Constitution, or of constitutional law, which he describes as including "all rules which directly or indirectly affect the distribution or the exercise of the sovereign power in the State." Not only does he give many details relating to the public revenue and the Forces of the Crown, which are somewhat remotely connected with the Constitution, but he has much to tell of countries subject to the laws of England, which range from the Channel Islands, the Colonies, the Indian Empire, to the nature and classification of Protectorates, Spheres of Influence, and Miscellaneous Possessions. The result is rather a survey of the British Empire and its legal equipment in many matters, in considerable detail, than a treatise on the Constitution only. This amplification makes the volume more complete as a work of reference, but it involves the risks of inadequate knowledge, and a greater liability to error. In briefly noticing such a work it is impossible to verify every statement, or to guarantee the accuracy of every assertion that is not challenged. The author mentions both four, and six, Lords of Appeal in ordinary: both cannot be right. He wrongly designates the Prime Minister as also Lord Privy Seal. The province of Eastern Bengal and Assam was abolished in 1912; the new province of Bihar and Orissa is not mentioned; the seizure of Cyprus from Turkey during the present war has been altogether overlooked. The new matter embodied in this edition consists chiefly of useful analyses of the Acts relating to Parliament, Ireland, the Welsh Church, the Court of Criminal Appeal, and the Territorial and Reserve Forces. Various statements are unnecessarily repeated, such as, for instance, those about the Act of Settlement, the Witenagemote, the inclusion of the Attorney-General in the Cabinet, the Grenville Ministry and the law as to Catholics. The historical accounts

[1] *Constitutional Law of England.* By E. W. Ridges, of Lincoln's Inn, Barrister-at-Law. Second Edition. (London: Stevens & Sons, 1915.)

in several cases, *e.g.* the Judiciary, are of more than antiquarian interest. This edition will be useful for consultation, though some of the statements may require correction.

C. E. Buckland.

PRISONERS OF WAR.

A little book,[1] the work of a Cambridge Whewell scholar, containing a succinct statement of the practical working in Great Britain of the provisions of the Geneva Convention of 1906, and the Hague Convention of 1907, on the Laws of War, is a useful addition to the legal literature due to the war. By the latter agreement, a Prisoners of War Information Bureau is to be established in each belligerent State at the commencement of hostilities and in any neutral State which has received belligerents on its territory. The business of the Bureau is to reply to all inquiries concerning the prisoners and to receive all information with regard to them, so as to keep up to date an individual return for each prisoner, which is sent to the other belligerent Government after peace is concluded, and to collect all personal effects of prisoners and forward them to the persons concerned. By the former agreement each belligerent is to send as early as possible the military identification marks or tokens found on the dead, and a nominal roll of the wounded and sick collected by him, besides keeping the other State informed with regard to the wounded and sick in their hands and collecting all articles of personal use found on the field of battle, or left by the wounded or sick dying in the medical establishments or units with a view to transmitting the objects to the persons interested.

Before this international sanction, the institution had been already recognised as a necessary part of the humane treatment of prisoners of war by belligerents in the Austro-Prussian, Franco-German, and Russo-Japanese Wars. The author describes in detail the organisation and method of the British Bureau constituted at the beginning of this war, which has a wider field of activity than its predecessors in that it deals with interned enemies as well as prisoners of war, with regard to whom Professor Oppenheim, in a valuable preface on the new problem of how to treat interned civilians, approves of the status of prisoners of war being accorded to them.

This book gives timely testimony to the promptness and ampleness with which the British Government has fulfilled and indeed gone beyond the obligations imposed by the treaties above mentioned, a standard which as yet the Central Empires have fallen short of, whether from inability or intentionally. The Bureau was constituted and in working order

[1] *The Prisoners of War Information Bureau in London.* By Ronald F. Roxburgh. (London: Longmans, Green & Co., 1915.)

within a week from the outbreak of war: it keeps a record of information as to all alien enemies interned as prisoners of war throughout the British Empire, whether captured prisoners or interned civilians, made up from lists supplied by all places of internment with all particulars and names and the events which happen to each person during internment, so that the individual return for every prisoner according to the stipulation of the Hague Convention will be an easy duty to perform. Further, upon agreement for reciprocity our Government is furnishing through the medium of the American Embassy to the enemy Governments at regular intervals full lists of all prisoners, sick, wounded or other, prepared by the Bureau (though the Conventions do not provide in this respect for unwounded prisoners), and copies to the International Red Cross Committee of Geneva. Again, it periodically forwards to the enemy States lists of the sick and wounded prisoners under treatment in hospitals here, with details of their wounds and weekly reports of serious cases. It similarly forwards to the hostile State concerned a list of enemy dead found within British lines and a schedule of the identification marks or tokens found on the dead and sent to the Bureau by the military authorities. It receives and takes charge of all personal effects found on the battlefield as well as property of prisoners of war dying after interment, and lastly it answers all inquiries from any source about prisoners of war or enemy dead, *e.g.* his address, the state of his health, etc., and it assists in the transmission of postal matter of prisoners.

One may hope, with the author, that a better knowledge of the humane endeavours of our Government by the world and the German people may lead to reciprocal action by the German Government in the way of giving better information with regard to our prisoners.

G. G. P.

INTERNATIONAL LAW IN WAR TIME.

Dr. Phillipson, in a book[1] published in the spring of 1915, undertook the very difficult task of surveying the position of International Law in the war to that time. Such a work by an international lawyer, though subject to the limitations arising from the conditions under which it was written, is particularly welcome at present on account of the practical importance of the subject. For International Law is now a battle-ground of contending nations to an extent it has never been before. At the outbreak of the war its fundamental principle was repudiated by one of the principal belligerents, and in the course of it, owing to a variety of circumstances, such as the unprecedented range of

[1] *International Law and the Great War.* By Coleman Phillipson. (London: Unwin. 15*s.*)

hostilities, the employment of new methods of warfare, and the bulk to which the laws of belligerency and neutrality have grown, more questions of International Law have already, we are told, been raised in this war than in any previous one. To review these questions in systematic order and in connection with what has occurred, and to discuss the rules applicable to them, whether those of law-making treaties or others, is the main object of Dr. Phillipson's book. But his work is not altogether concerned with International Law itself; subjects are treated in it in detail, which are at present governed only by rules of Municipal Law, such as that of the status of alien enemies, the right of trading with the enemy, the rights of alien enemies to sue in our Courts (we are assuming the British interpretation of Art. 23*h* of Convention IV. Hague Peace 1907 to be right). As might be expected from the author's previous works, it contains much introductory matter of an historical kind. The book, as a whole, seems to be open to the criticism that it attempts too much for the space allotted to it. The discussion of vexed questions of International Law in it is frequently rather one-sided, and unaccompanied with sufficient references to authorities. Considering the extent of the subject, it might have been better if the author had either confined himself to a simple summary or had dwelt only on the important features. As it is, however, it succeeds in making the legal aspect of the war more generally intelligible.

The disregard of the authority of International Law shown by Germany is its main theme. But it is satisfactory to find that neither the author himself nor Sir John Macdonell, who has written an admirable Introduction, expresses any want of hope in the future of International Law on this account. What they both insist on, however, is that States should co-operate more closely in support of their common law than they have hitherto done. It is, in their opinion, not only the moral, but also the legal duty of neutral States to intervene, at least in a diplomatic way, if treaties to which they are parties, even though not treaties of guarantee, are broken by belligerents.

Accordingly Dr. Phillipson maintains that the United States of America, having been a party to Arts. 1 and 2 of the Fifth Convention, Hague Peace, 1907, declaring neutral territory inviolable and prohibiting neutral passage through it, was bound to interfere with all the legal power at its command, when Belgian territory was violated by Germany. Such an interpretation of legal duty may go beyond the limits hitherto recognised, but it is certainly not more extensive than the security of nations demands. Consistently with this attitude, the intervention of Great Britain in the present war is justified by the author on the ground that it is the duty of every member of the family of nations to interfere for the preservation of the balance of power, which he considers to be the basis of International Law. He is on more certain and more strictly legal ground

when he justifies our participation in it on account of our treaty obligations respecting Belgium. The treaty of 1839, guaranteeing the neutrality of that country, he rightly holds, in accordance with the prevalent opinion, to have made the parties to it severally as well as collectively liable on account of it, whereas it is clear that the guarantee of the treaty of 1867 in respect of Luxemburg was only a collective one. But one is somewhat surprised to see, in a work of a legal character, the strict interpretation of the term "collective" in the latter treaty, which was put in it by Lord Derby, approved of, since this, by making the guarantee inoperative if one of the parties to the treaty is himself guilty of violating it, practically reduces what was intended to be a guarantee to a nullity.

The breach of faith in respect of these treaties committed by Germany leads the author to examine the German doctrine of military necessity, and the same subject is again considered by him in connection with his account of German methods of warfare. Perhaps in a work which professes to be written from a strictly legal standpoint it is out of place to refer, as it does, to such writers as Clausewitz, Jähns, Lasson, Treitschke, Frobenius, Von der Goltz, and Bernhardi, since none of these were international lawyers. Bluntschli, who was a very distinguished one, is, however, cited as having expressed disapproval of the militarism of Moltke and of the conduct of his countrymen in the Franco-German War. It is said that Bluntschli has had no successor in this independent line. On the terrible outrages committed by the German Army in Belgium and France the book dwells at length. It would seem that, according to German military instructions, there is hardly any act of cruelty which an inhuman commander may not commit on such pleas as that he was making reprisals, inflicting collective punishments, or exacting contributions.

It is in respect of the conduct of the war by sea that the recognised rules of International Law have been most openly set aside by the belligerents. Dr. Phillipson justifies the Orders in Council as having been retaliatory measures, which the mining of the open sea by Germany and her unscrupulous use of submarines made necessary.

Not only in the sphere of Maritime Law, but also in other parts of the system, the reader of this book will notice new practices arising which will have to be considered when the resettlement of International Law comes. One of the most interesting of these is to be found in the attempts different States are making to continue to be at peace with Allies of States with whom they are at war.

E. A. Whittuck.

LAWS OF GIBRALTAR.

UNDER an Order in Council of June 1912, the Ordinances and Orders in Council in force in Gibraltar have been consolidated by the Attorney-General, Mr. Bartle Frere, K.C. They are comprised in a portly volume of 800 pages, with which are issued one slim volume of Rules and another of Index.[1]

Statute Law Revision has made far greater strides in the Colonies than in England, where an almost superstitious jealousy against interferences with the " sacred text " prevails both in Parliament and at the Bar. An examination of the Order in Council under which Mr. Frere operated enables us at once to appreciate some of the advantages of a free autocracy. He was authorised to omit not only repealed laws, but also those " which have expired or have become spent or have had their effect," as well as preambles and words of enactment, where the omission could in his opinion be conveniently made. He might further omit words merely fixing the date of commencement of laws. He might consolidate Ordinances and Orders in Council which are *in pari materiâ*, add or alter short titles where required, supply or alter marginal notes, arrange the laws in any order that may be convenient, irrespective of the date of enactment, alter the order of sections, divide Ordinances into parts, and sections into subsections, correct grammatical and typographical mistakes, and " make verbal additions, omissions or alterations, not affecting the meaning of any enactment," and finally, " do all other things relating to form and method which may be necessary for the perfecting of the new edition."

Mr. Frere has used these large powers with judgment and courage. He follows Chitty in grouping the Ordinances under general heads, but his groups are far more compact than Chitty's, seeing that he consolidates all amending enactments with the principal Ordinances. Thus the Summary Conviction Ordinance of 1885 of ninety-one sections is in fact a consolidation of that Ordinance with one preceding and eighteen amending Ordinances. The matter consolidated appears, not in the Ordinance itself, but in a Chronological Table, so that it might be somewhat laborious in some cases to discover exactly where the amending legislation now finds itself. It would, on the other, have been almost impossible, and if possible unsightly, to have shown in the text or margin the words of amendment. And, after all, the Order in Council makes this edition the " sole and only proper book " of the Ordinances, so that there is no need for any reference to the precise source of each clause or word.

Many of the laws of Gibraltar are mere adaptations of English statutes. In such cases Mr. Frere has wisely given a reference in the margin to the corresponding English Acts.

A. GRAY.

[1] *Consolidated Laws of Gibraltar.* 3 vols. (Gibraltar: William Miles, 1913.)

THE GOVERNMENT OF TRINIDAD.

A LITTLE book[1] containing in a convenient form a short and clear summary of the constitutional history of Trinidad has special interest in its detailed examination of the mode in which the Spanish law in force at the time of the acquisition of the island was gradually superseded by law based on English law, until the Spanish law is in the main a mere matter of historic interest. The construction of the Government is fully set out as regards the executive, legislative, and judicial branches, and the author gives in addition chapters on the royal prerogative, the Colonial Office, and the history of barristers and solicitors.

To a few points of minor importance further attention might well be given in a future edition. Great obscurity attaches to the result of the change of sovereignty in its effect on a system of law which is not English. How much of the public law of England is thus introduced by the mere fact of the change? The author assumes (p. 54) that the subject in Trinidad enjoys the right to petition the King based on the statute 1 William and Mary, sess. 2 c. 2, and he seems also to hold that a Petition of Right exists by common law in Trinidad (p. 39, n. 1). But it is very doubtful whether either of these assumptions could be made good; in Mauritius it has been held that the allowing to remain in force of the Code Napoleon results in limiting the prerogative of the Crown in regard to priority in a claim against a bankrupt estate; in the Union of South Africa it seems to be held that the extent of the common law right of the Crown to repel disorder is, in the case of the Transvaal and the Orange Free State, to be measured by the law of the territories before annexation, and not by English law; in the Cape it has been believed that a Petition of Right did not lie, and in Trinidad itself the question has never been settled; but by Ordinance No. 9 of 1913 a remedy is provided in such cases, just as was done at an earlier date in the case of St. Lucia, in which French law prevails. *Per contra*, in Ceylon and Mauritius the Crown by practice is sued directly, whether on the strength of the pre-existing law before these territories fell into the hands of the British Crown or for some other cause.

Some space is given to the question of the removal of the holders of patent offices (pp. 61, 85, 93–5), but it should be noted that there is no authority for the view that the holder of an office at pleasure is entitled to the benefits of Burke's Act, and the best opinion,[2] which has the authority oft he Judicial Committee of the Privy Council in its favour, is to the contrary, so that the question is not one of much importance for Trinidad. The case of *Campbell* v. *Hall* (p. 48) must not be cited as an authority for the inability of the Crown to legislate for a colony in which any legisla-

[1] *The Government of Trinidad.* By Charles Reis. (London: Sweet & Maxwell, 1915.)
[2] *Ex parte Robertson*, 11 Moo. P.C. 288.

ture is set up; it is clear that the case deals only with representative legislatures, and therefore does not apply to Trinidad, which has never had such a legislature. The facts about the Colonial Office (p. 52) are not quite correctly stated; there is one Parliamentary and one Permanent Under-Secretary of State, and it is not now the practice to submit the laws of Colonies not possessing responsible government—the new official name of the old Crown Colonies—to the King through the Privy Council Office. The only case where presentation to the Crown is necessary is where a bill of a colonial legislature has been reserved, and it is necessary under the local constitution that the assent should be given by Order in Council.

A. B. KEITH.

GOVERNMENT AID TO HOME-OWNING AND HOUSING.

MODERN industrial development, with its consequent concentration of populations into large cities, has given rise to many social problems, the most important of which is perhaps the provision of decent and adequate housing accommodation for the working classes. It was probably inevitable that the novel and sudden demand for town dwellings should at first have resulted in haphazard development governed principally by the ideals of the speculative builder; subject, however, to a gradually increasing control by health regulations and building by-laws. Even so, the supply of dwellings was rarely sufficient to meet the demand; and in most civilised countries some form of government aid is now given for the purpose of increasing the available accommodation. The form which this assistance takes varies considerably in different countries; and the bulletin recently issued by the United States Bureau of Labour Statistics on "Government Aid to Home-owning and Housing of Working People in Foreign Countries" has therefore special value as an aid to the study of comparative legislation on the subject.

A classification of the means by which such aid is granted which appears in the introductory portion of the Bulletin shows that it almost invariably takes one of three forms, namely: (1) direct building either for government or municipal employees or for working people generally; (2) the granting of loans from public funds either to local authorities, public utility societies, employers, or individuals; or (3) some form of subsidy, such as the granting of exemptions from or concessions in taxes or fees. A summary in some detail is given of the forms which public aid has taken in fourteen countries most active in housing reform. It is stated that in Germany government aid has been given more largely, probably, than in any other country—a statement which comes rather as a surprise in view of the conditions prevailing in Berlin. It is interesting to observe, too, that to Belgium belongs the credit of being one of the

pioneers in the housing movement through State intervention. In dealing with Great Britain, attention is called to the fact that the Housing of the Working Classes Acts, 1890 to 1909, not only provide for new housing accommodation where needed, but also for large clearance schemes undertaken by local authorities in insanitary areas, with rehousing of the displaced tenants, and for the treatment of small slum areas and insanitary houses by local authorities. Reference is also made to the conditions obtaining in rural districts in this country. The housing problem in Great Britain has been as acute as in any European country, but a perusal of this Bulletin shows that by the efforts of our legislature, coupled with the activities of the Local Government Board and local authorities, much has been done to meet the situation. This study of what has been done in other countries is suggestive, however, of possible developments in new directions.

SYDNEY G. TURNER.

CANADIAN CONSTITUTIONAL LAW.

MR. LEFROY has supplemented his valuable treatises on *Legislative Power in Canada* and *Canada's Federal System* by a collection of *Leading Cases in Canadian Constitutional Law*,[1] carefully selected to illustrate the fundamental points in the law of the Constitution of Canada, so far as that Constitution rests upon the British North America Act. He desires his work to be regarded as a supplement to Mr. E. C. Thomas's collection of leading English constitutional cases, since these cases, and the principles of British liberty which they establish, and for which Canada is now fighting, are leading cases in the constitutional law of Canada also, in so far as that law is unwritten. In accordance with the aim of the work, the plan followed is to give very briefly and as clearly as is practicable, the effect of the cases cited, and to quote as shortly as possible the portions of the judgments which establish the principle for which each case is adduced. When the great extent of the decisions of the Privy Council on the Canadian Constitution is remembered and regard is had to the extreme difficulty, in many cases, of defining exactly the result of the judgments delivered, it must be held that Mr. Lefroy has accomplished with great success his arduous task of selection. No serious case of omission seems to occur, though one might perhaps have expected to find the position of the Lieutenant-Governors illustrated by the cases affecting the right to pardon and the appointment of King's Counsel.

Here and there a statement may seem to require some modification. Thus the case of *Attorney-General of Canada* v. *Cain* [2] is cited as estab-

[1] *Leading Cases in Canadian Constitutional Law.* By A. H. F. Lefroy, K.C. (Toronto: The Carswell Co., Ltd., 1914; London: Sweet & Maxwell, 1914.)

[2] [1906] A.C. 542.

lishing the power of the Dominion Government to expel an alien from the Dominion of Canada, and to deport him to the country whence he came to the Dominion. The case itself, however, deals with the special instance in which the only steps necessary for deportation were to place the deportee on board a vessel, which had merely to proceed through Canadian waters across the international water boundary between the Dominion and the United States; the much more important question of the right to deport to the United Kingdom or the Continent of Europe, which is in practice acted upon under the Canadian Immigration Act in respect of British subjects, as well as of aliens, did not arise, and the position of the deportee towards the master of the ship by which he is being deported beyond Canadian waters still awaits decisive settlement.[1] Canada has no power to make laws for any part of His Majesty's Dominions outside Canada,[2] but the detention of the deportee may be justified by considerations of necessity at least up to the ship's first place of call, but hardly, it would seem, farther, if he desires to land there, and is not permitted to do so. Again, the statement (p. 26) based on *Quirt* v. *The Queen*,[3] that the division of legislative power between the provinces and the Dominion does not refer to area, but to subject-matter, requires some qualification in view of the express terms of s. 92 of the British North America Act and *Woodruff* v. *Attorney-General for Ontario*.[4] The decision of the Supreme Court of Canada in *Canadian Pacific Railway Co.* v. *Ottawa Fire Insurance Co.*,[5] under which a provincial insurance company may enter into contracts outside the province for the insurance of property lying even outside Canada, is still open to revision by the Judicial Committee. Nor, again, does it seem probable that the interpretation placed by Mr. Lefroy (p. 77) on the Alberta railway case [6] can be correct. He suggests that, in order that a provincial legislature should have power to deal with a debt, it is necessary that both the debtor and creditor and all parties concerned should be within the local limits of the province. If this were so, since it is certainly true that either the Dominion Parliament or the provincial legislatures have full legislative authority in matters affecting Canada, it would follow that the Dominion Parliament would have to be appealed to on many topics wholly beyond its normal sphere, and it is not conceivable that the Judicial Committee could have intended this result. The facts of the case show clearly that the *ratio decidendi* was that the lenders of money were entitled to claim repayment from the Royal Bank of Canada at Montreal in the Province of Quebec of the moneys which they had advanced and which had been transferred to the credit of a special account at Edmonton, on the strength of arrangements

[1] Cf. *Reg.* v. *Lesley*, Bell C.C. 220; *Journ. Soc. Comp. Leg.* xi. 235-7.
[2] Cf. *A.G. for Ontario* v. *A.G. for the Dominion*, [1912] A.C. 571.
[3] 19 S.C.R. 510.
[4] [1908] A.C. 508.
[5] 39 S.C.R. 405.
[6] [1913] A.C. 283.

which the provincial legislature had attempted by the Act which came under discussion to override. If the Alberta Act had been upheld, this clear right would have been defeated, with the result that the Act would have dealt with what was certainly not a civil right or property within the province, or directed solely to matters of merely local or private nature within it. In fact, the circumstances of the case were so peculiar that it may be found that it affords little light on the general question of the power of provincial legislatures to deal with debts.

Of many other interesting matters it must suffice to note Mr. Lefroy's prediction (p. 34) that the federal government will not hereafter disallow provincial acts merely on the ground of *ultra vires*, a prediction which is perhaps over-sanguine, to point out that the federal system both in Canada and the Commonwealth has made serious inroads on the doctrine of the indivisibility of the Crown (p. 4) by bringing the different rights of the Crown in the federations into constant judicial conflict, and that s. 2 of the British North America Act (pp. 6 and 99) was repealed in 1893 as superfluous.

A. B. K.

REVISED STATUTES OF MANITOBA.[1]

Like several of the other Provinces of the Dominion of Canada, Manitoba periodically undertakes the important and useful work of revising its statute law. The last revision embraced legislation down to the year 1902, and now, after the lapse of eleven years, a fresh revision has been undertaken, dealing with the statutes down to 1913. This fresh recension is contained in three volumes as against two in somewhat bulkier form as the result of the last revision. Prefixed to the work are printed four Imperial Acts dealing with British North America; these are followed by three Dominion Acts in reference to Manitoba; those, again, being followed by the Provincial Act respecting the revision, and defining the extent of operation of the statutes forming the general body of the work, showing the effect of repeals, specifically enacting that the revised statutes are not to operate as new laws, and declaring how they are to be construed where they differ from repealed enactments. The statutes themselves are arranged, not chronologically, but alphabetically according to the subjects dealt with. Thus they begin with Agriculture and finish with Workmen, the various statutes being grouped under their appropriate headings practically on the lines of Chitty's Statutes. An extremely full index is furnished. Such a work naturally must have entailed a vast amount of labour and care, and the result as gathered up in the three substantial volumes should prove of great value, primarily, of course, to practitioners in Manitoba, but likewise to all students of

[1] *Revised Statutes of Manitoba*, 1913. 3 vols. (Winnipeg: King's Printer.)

comparative legislation. Nearly all of the statutes passed by the legislature are, as one would expect, of an extremely practical character, but it is interesting to notice sandwiched between "An Act for the Prevention and Suppression of Fires" and "An Act to declare the true construction of the Act passed in the thirteenth year of the Reign of Queen Elizabeth, and chaptered five, and intituled 'An Act against Fraudulent Deeds, Alienations, etc.'" one very small statute, quite poetical in character, which by its only section provides that "The flower known botanically as the *anemone patens* and popularly called the 'crocus,' shall be adopted as, and deemed to be, the floral emblem of the Province."

J. S. HENDERSON.

COMMERCIAL LAW OF JAPAN.

SIR WILLIAM BLACKSTONE mentions that if a man has no knowledge of the law he may all unwillingly become a criminal and a convict, and thus bring ruin upon his family and shame upon his name. Such is the force of the maxim *ignorantia juris neminem excusat.* And, apart from the possibility of gaol or halter, he who knows no law may find himself at any moment involved in the horrors of civil litigation. As the above-mentioned maxim is applied in the Courts of Japan, no less than in those of the United Kingdom, the British merchant domiciled in Japan is in special peril. Till Mr. De Becker set to work he was compelled, when faced by a legal problem, to seek the answer to it in a Japanese text-book, with the alternative of remaining in doubt as to his rights and liabilities, and leaving things to chance. Now, thanks to Mr. De Becker, he is furnished with English translations of the Japanese Criminal Code, and a *Commentary on the Commercial Code of Japan* in three well-written volumes.[1] The second and third of these deal respectively with the subjects of Insurance, Bills of Exchange, Promissory Notes and Cheques, and Maritime Commerce and Bankruptcy. Mr. De Becker points out, in his two prefaces, that Japan has turned to Germany for inspiration in connection with her Commercial Code. Though its framers have occasionally borrowed from English and French sources, the Commercial Code of the German Empire was the model which they had constantly before them. This influence of the Teutonic school is seen elsewhere than in the Commercial Code itself. "German and technical juristic expressions," says the learned author, have been adopted and naturalised in the Courts of Japan, and these, translated into the vernacular, "are recognised by the legal profession as standard terms having a peculiar and definite significance."[2]

[1] *Commentary on the Commercial Code of Japan.* By J. E. De Becker. Vols. ii. and iii.

[2] See the *Deutsch-Japanisches Rechtslexikon* (Doku-Wa Hōgaku Dai-Jiten), by Mr. K. Inouye, containing a list of German and Japanese law terms.

The Japanese law relating to bills of exchange is, it appears, similar to that of most European countries, but, like the rest of the Code, it bears the imprint of Germany. It is, moreover, "characterised by extreme formalism," and the Courts of Japan are deprived of the possibility of granting relief on equitable grounds. When the prominent part played by the negotiable security in modern commercial transactions is borne in mind, the importance to the English merchant of familiarity with the technicalities to be observed is obvious. The difficulties of a foreigner can be appreciated when one reads the provisions of the Code relating to " endorsement " (ura-gaki), " name endorsement " (kimeishiki-uragaki), and " blank endorsement " (mukimei-shiki). Mr. De Becker makes clear what must have been painfully obscure to the Englishman as set out in the ideographic script of a Japanese statute. The fact that Japan should have disregarded the claims of England when selecting her legal doctrines as to maritime commerce is commented upon by the author. German ideas, with an added flavour of French law, have been preferred, says Mr. De Becker, to the mercantile law of a country controlling half the tonnage of the globe, and it is only " here and there " that " one can discern faint traces of British influence." The law of Japan relating to bankruptcy is, in the view of the author, out of date, and " most harsh and unreasonable in many respects " ; bankruptcy proceedings themselves he labels as " slow, cumbersome, and wholly unsatisfactory to business men." A bankrupt, it seems, cannot obtain his discharge till debt, interest, and cost have been paid in full. Mr. De Becker commends the English law of bankruptcy to the notice of the draftsmen of the new statute which the Japanese Diet has in contemplation. It may perhaps be that when these experts come to examine the English treatises on the subject they will consider that the bankrupt of the United Kingdom is the spoilt child of the law ; but the existing law of Japan is certainly open to the criticism that it deprives the trader who has met with financial reverses of the inducement to renewed industry. Mr. De Becker is well entitled to, and has doubtless earned, the gratitude of the mercantile community for whom his most useful work is intended.

T. Mathew.

THE ROYAL ASSENT.

In the consideration of the problems concerned with the relations between the Dominions beyond the seas and the Mother Country, it is most important that their historical aspect should receive due attention. Among them is the power of disallowing or reserving the bills passed by the legislative bodies of the Dominions which was the cause of difficulties from the time that the Colonies had their own legislative assemblies. One of the grievances set forth in the Declaration of Independence was that

the King had "forbidden his Governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them."

In a monograph [1] issued under the auspices of the Faculty of Political Science of Columbia University, Dr. E. B. Russell has traced from its beginnings the exercise of the Government's power of reviewing legislation. His study has embraced an examination of the departments of Government engaged upon this work, their composition, method of procedure, and attitude towards colonial problems. He has endeavoured to ascertain the object of the Government in confirming some and disallowing other laws, and to what extent their aims have met with success or failure.

Incidentally Dr. Russell's study has thrown an interesting light upon other subjects. It suggests, for example, why the Dominions are constantly revising their laws and simplifying their form to an extent which is regarded as an example worthy to be followed by the United Kingdom.[2] After a long period of time they have acquired the habit of doing of their own free will that which was impressed upon them in the early days of their existence. "From time to time," writes Dr. Beecher, "the Colonies were urged to gather and transmit a complete collection of their laws in force, for convenience in reviewing new Acts and in judging colonial appeals. With this request all the Colonies, royal, charter, and proprietary, at rather long intervals complied," with the result that, before the end of the seventeenth century, collections of colonial Acts were compiled upon lines similar to those of modern revisions.

Another point which may be mentioned was the disallowance at an early date of any Acts limiting the appeal to the King in Council. The prohibition of an appeal from a special Court in the Bahamas was deemed "altogether inconsistent with the constitution of the Colony."

But Dr. Russell seeks to trace the influence of the review by the Privy Council of colonial legislation upon the Government of the United States, rather than of the British Empire, and finds in its work "at once a precedent and a preparation for the power of judicial annulment upon constitutional grounds now exercised by the state and federal Courts in the United States."

C. E. A. B.

[1] *The Review of American Legislation by the King in Council.* By Elmer Beecher Russell. (London: P. S. King & Son, 1915. 7*s*.)

[2] See, for example, *supra*, p. 86.

PERIODICALS.

The December number of the *Round Table* contained an article upon the representation of India in the Imperial Conference which constitutes a contribution of permanent value to any consideration of that problem. Among the articles by correspondents in the Dominions special reference may be made to the Canadian on account of its description of recent legislative experiments.

"The present year in Canada," it states, "has been remarkable for its abundance of actual and proposed legislative reform. The Western Provinces in particular have been prominent in this respect. Temperance, direct legislation, and woman suffrage are the three most outstanding issues to-day in the policies of the Governments of Manitoba, Saskatchewan, and Alberta, while that of temperance is before the people of Ontario and British Columbia. Saskatchewan, with sensational swiftness, abolished all its hotel bars in July last, and at the same time provided for the taking of a referendum vote at the first December municipal elections following the end of the war, but not before December, 1916, to decide whether or not the bars shall be reopened. Alberta by means of the referendum, on July 21 last, voted overwhelmingly in favour of complete prohibition, which will come into effect in that province in July, 1916. Early in October the Government of Ontario, following a prolonged agitation in favour of restricting the liquor traffic, announced that all hotel bars must close at eight o'clock in the evening, as compared with eleven o'clock, the old closing hour. . . . In addition to these drastic measures affecting the liquor traffic, all three prairie provinces have pronounced themselves on the question of woman suffrage. The Norris Government had woman suffrage as the third plank in its recent successful platform in Manitoba. Hon. A. L. Sifton, Premier of Alberta, announced in September that his Government would submit to the Legislature at the forthcoming session a measure extending the franchise to adult women; and the Premier of Saskatchewan already has expressed himself as favouring woman suffrage. The present voters' lists in the three prairie provinces will be the last to be made up exclusively of male electors.

"The wave of sentiment which has swept over Western Canada in favour of temperance has done much to advance the cause of direct legislation in that part of the Dominion. . . . Alberta has not given its people a complete measure of direct legislation, involving the initiative, referendum, and recall. A certain percentage of the electorate of the province must be represented on any petition to the Government before any piece of legislation may be initiated or a referendum be taken. The Province of Saskatchewan also has only experimented with direct legislation, as yet, but the new Government in Manitoba is pledged to give the people of that province a full measure of it."

United Empire, the journal of the Royal Colonial Institute, has published a series of articles dealing with Kindred Societies—Past and Present. The Society of Comparative Legislation formed the subject of the article in the July issue by the Chairman of the Executive Committee, Sir Courtenay Ilbert, G.C.B. As the Society came of age on December 19, it may be that some present readers of the Society's Journal are not familiar with the circumstances which led to its formation, and of its gradual development. In any case this authoritative account of its aims and work should help to make the Society more widely known, and we are indebted to the Editors of the Institute's magazine for their kind co-operation in publishing the article.

In the *American Political Science Review* for November is an article of particular interest to British readers by Mr. Theodore H. Boggs of Dartmouth College. From " the spontaneous display of loyalty on the part of the British Dominions " caused by the war as a basis of his discussion he traces " the trend within the British Empire " towards Imperial unity. The development of recent years seems to him to have passed without adequate notice. The Dominions are strongly determined to remain members of the Empire and are equally determined to retain, if not to increase their rights of self-government, already practically complete. " This seeming paradox is a monument to British statesmanship, blind and halting as the latter has appeared at times." The position of India and the remarkable developments there receive attention before Mr. Boggs passes to the main point of his study, that the ties which bind the Dominions to the Mother Country " are the embodiment of the prosaic factor of self-interest." Of the problems which have to be faced the two chief are considered to be the position of Indian immigrants in the British Dominions and the control of the Navy. The former, in the opinion of the writer, will be gradually solved by gentler treatment as the Dominions realise its importance, while in regard to the latter " the separate navy plan is destined to carry the day." The conclusion of Mr. Boggs' study, though somewhat vague, is that the time has come for some definite steps to be taken in welding together more closely the constituent parts of the Empire.

The Editors will be glad to consider articles upon subjects cognate to the objects of the Society, and to receive brief notes upon important decisions in the Courts and other matters of current interest. Communications respecting literary matters may be addressed to them at 3 (North) King's Bench Walk, Temple, London, E.C.

The Journal is only supplied to members of the Society. The subscription for membership is one guinea per annum, payable either direct or through a bookseller to the Secretary, 3 (North) King's Bench Walk, Temple, London, E.C., or the Society's Bankers, Messrs. Child & Co., 1, Fleet Street, London, E.C.

REVIEW OF LEGISLATION, 1914.

TABLE OF CONTENTS.

PAGES

INTRODUCTION . . . . . vii-xv
Contributed by Sir Courtenay Ilbert, G.C.B.

BRITISH EMPIRE :—

I. BRITISH ISLES—
1. United Kingdom . *Contributed by* E. Manson, Esq. . 1–6
,, ,, Emergency Legislation
Contributed by Sir Courtenay Ilbert, G.C.B., and C. E. A. Bedwell, Esq. 6–32
2. Isle of Man 32
3. Jersey . *Contributed by* E. T. Nicolle, Esq. . . 33
4. Guernsey 33–34

II. BRITISH INDIA—*Contributed by* Sir Courtenay Ilbert, G.C.B.
1. Acts of Governor-General in Council 35–39
2. Madras 39–41
3. Bombay 41–42
4. Bengal 42–43
5. Bihar and Orissa 43–44
6. United Provinces 44
7. Punjab 44–45
8. Burma 45–46
9. Regulations under 33 Vict. c. 3 46
10. Ordinances under 24 & 25 Vict. c. 67, s. 1 . . . 47–50

III. EASTERN COLONIES—
1. Ceylon . . *Contributed by* L. Maartensz, Esq. . 51–52
2. Hong-Kong . ,, ,, C. G. Alabaster, Esq. 52–56
3. Straits Settlements ,, ,, A. de Mello, Esq. . 56–64
4. Federated Malay States ,, ,, ,, ,, ,, . 64–67
5. Mauritius 67–68
6. Seychelles 68–69
7. Wei-hai-wei 69

IV. AUSTRALASIA— PAGES

1. Commonwealth of Australia
Contributed by R. R. Garran, Esq., C.M.G. 70–75
2. New South Wales
Contributed by N. de H. Rowland, Esq., B.A., LL.B. . 76–83
3. Queensland
Contributed by The Hon. Littleton E. Groom and J. Walsh, Esq., B.A. 83–92
4. South Australia—*Contributed by* G. A. Yuill, Esq., LL.B. 92–103
5. Tasmania 103
6. Victoria—*Contributed by* C. J. Zichy-Woinarski, Esq., K.C., and W. Harrison Moore, Esq. 103–111
7. Western Australia—*Contributed by* F. L. Stow, Esq., LL.D. 111–117
8. Papua 117–120
9. Northern Territory 120
10. New Zealand—*Contributed by* James Christie, Esq., LL.B. 120–137
11. Fiji . . „ „ T. D. H. Brun, Esq. . 137–139
12. Western Pacific „ „ „ „ „ . 139–140

V. SOUTH AFRICA—

1. Union of South Africa
Contributed by E. L. Matthews, Esq., K.C., C.M.G. 140–159
2. Cape of Good Hope . *Contributed by* G. M. Swift, Esq. 159–161
3. Natal . . *Contributed by* F. S. Tatham, Esq., K.C. 161–163
4. Orange Free State
Contributed by C. A. Beck, Esq., B.A., LL.B. 164–165
5. Transvaal . . *Contributed by* G. Hartog, Esq. 165–166
6. Southern Rhodesia 166–167
7. Northern Rhodesia 167–169

VI. WEST AFRICA—*Contributed by* Albert Gray, Esq., C.B., K.C.

1. Gambia 169–170
2. Gold Coast :
(i) Colony 170–171
(ii) Ashanti 171–172
(iii) Northern Territories 172
3. Sierra Leone 172–173
4. Nigeria 173–175

VII. EAST CENTRAL AFRICA—

1. East Africa Protectorate
Contributed by Albert Gray, Esq., C.B., K.C. 176–178
2. Uganda „ „ „ „ „ „ 178–179
3. Somaliland „ „ „ „ „ „ 179–180
4. Zanzibar „ „ J. E. R. Stephens, Esq. . 180–183

VIII. SOUTH ATLANTIC—

PAGES

1. British Guiana—1913
Contributed by The late Sir T. Crossley Rayner 183–186
British Guiana—1914
Contributed by The Hon. J. J. Nunan, K.C., LL.D. 186–192
2. Falkland Islands 192
3. St. Helena 192–193

IX. NORTH AMERICA—

1. Dominion of Canada
Contributed by A. H. F. Lefroy, Esq., K.C. 193–199
2. Alberta 199–200
3. British Columbia *Contributed by* E. C. Mayers, Esq. . 200–212
4. Manitoba 213–214
5. New Brunswick 214–215
6. Ontario . *Contributed by* A. H. F. Lefroy, Esq., K.C. 215–224
7. Prince Edward Island 224
8. Quebec 224–225
9. Saskatchewan *Contributed by* R. W. Shannon, Esq., K.C. 226–229
10. Newfoundland 230–231
11. Bermuda *Contributed by* The Hon. Reginald Gray, K.C. 231–233

X. THE WEST INDIES—

1. The Bahamas *Contributed by* Harcourt Malcolm, Esq., K.C. 234–238
2. Barbados *Contributed by* Wallwyn P. B. Shepheard, Esq. 238–241
3. British Honduras 241–242
4. Jamaica—*Contributed by* Albert Gray, Esq., C.B., K.C.
(i) Colony 242–244
(ii) Turks and Caicos Islands 244
5. Trinidad and Tobago
Contributed by Wallwyn P. B. Shepheard, Esq. 244–248
6. Windward Islands—*Contributed by* Sir Charles J. Tarring
(i) Grenada 249
(ii) St. Lucia 249
(iii) St. Vincent 250
7. Leeward Islands—*Contributed by* Sir Charles J. Tarring
Federal Colony 250–251
(i) Antigua 251
(ii) Dominica 251–252
(iii) Montserrat 252
(iv) St. Christopher and Nevis 253
(v) Virgin Islands 253

XI. MEDITERRANEAN COLONIES— PAGES

1. Egypt . *Contributed by* Norman Bentwich, Esq. 254–257
2. Gibraltar „ „ Albert Gray, Esq., C.B., K.C. 257–258
3. Malta . „ „ „ „ „ „ „ 258–259
4. Cyprus . „ „ „ „ „ „ „ 259–260

FOREIGN :—

1. DENMARK 261–262
Contributed by P. Skadhauge, Esq.

2. FRANCE 262–267
Contributed by M. C. Sansas, *Docteur en droit.*

3. GERMANY 267–274
Contributed by E. J. Schuster, Esq., LL.D.

4. NORWAY 274–277
Contributed by E. Corneliussen, Esq.

5. UNITED STATES OF AMERICA—FEDERAL AND STATE LEGISLATION 277–287
Contributed by R. Newton Crane, Esq.

6. SWEDEN 287–292
Contributed by Siegfried Matz, Esq.

INDEX 293–314

REVIEW OF LEGISLATION, 1914.

INTRODUCTION.

[*Contributed by* Sir Courtenay Ilbert, G.C.B.]

The exceptional conditions of the year which has just closed (1915) hampered and retarded the work of collecting and digesting the materials relating to the legislation of the previous year. On the eve of going to press it is impossible to do more than cast a very hasty glance at some of the characteristic features of that legislation.

The legislation of 1914 falls within two distinct periods, the period of peace legislation and the period of war legislation.

During the first seven months of the year the several legislatures of the British Empire continued to concern themselves with the ordinary problems of peace, problems of much the same kind as those which had engaged their attention during previous years. During the last five months they had probably little leisure for anything except the "emergency" problems arising out of the war. Our review of legislation at Westminster draws a distinct line between these two periods, and groups the laws of the second period under the head of "Emergency Legislation." In dealing with the legislation of British possessions, colonies, and dependencies it was not, as a rule, found practicable to draw a corresponding line, and the conditions which the several laws were intended to meet are left to be assumed from their contents.

At Westminster the attention of Parliament was, during the period before the war, concentrated on the grave issues raised by the measure for giving Home Rule to Ireland. Both the Government of Ireland Bill and its twin measure, the Welsh Church Bill, were, before the war began, passed for the third time by the House of Commons. During the war period, on the last day of the session which ended September 18, both of these measures received the

Royal Assent under the Parliament Act, 1911. But this assent was preceded by the passing of a Suspension Act, which postponed their operation. The result is that both the Government of Ireland Act and the Welsh Church Act are on the statute book, but are in a state of suspended animation. Besides these measures Parliament had found time before the war to pass a very technical Act amending the bankruptcy law in several important particulars, and also some minor, but useful, Acts relating to children.

A full narrative of the emergency legislation of the year, as embodied in a series of Acts, Orders in Council, and statutory orders dealing with matters arising out of the war, forms, as has been stated, a distinct part of the summary of legislation at Westminster. This narrative breaks off at the end of the calendar year 1914 and during the course of an exceptionally long session which is still in progress at the beginning of 1916. Until the narrative is complete, the time does not seem to have arrived for summing up the characteristics of the difficult, complex, and multiform legislation which has arisen in the United Kingdom out of the unprecedented exigencies of a colossal war.

In British India some important Acts were passed during the peace period. Among them may be noticed the law for adapting to India the Imperial Copyright Act of 1911, some measures for giving effect to the policy of decentralisation, and an amendment of the law relating to joint-stock companies. The Madras Legislative Council, at the instance of a Hindu member, made an interesting amendment of the Hindu law relating to transfers and bequests, for the purpose of meeting the difficulties arising out of the decision in what was once well known to lawyers as the *Tagore* case.

The "emergency legislation" of British India was mostly embodied in a series of temporary Ordinances. This form of legislation is not often adopted in India, but no less than nine such Ordinances were enacted in 1914.

The emergency legislation of a Crown Colony is well illustrated by the series of Ordinances passed for the important commercial and military station of Hongkong; and the legislation of the Straits Settlements and the Federated Malay States, which was not confined to war questions, presents some interesting features.

The Commonwealth of Australia is a statutory body with limited powers, and the limitation of its powers has been fertile in legal

puzzles. Was there a criminal law of the Commonwealth as distinguished from the criminal law of the several States? Was the criminal law of the States adequate for dealing with offences against the Commonwealth? On these points grave doubts were entertained, and it was for the removal of these doubts that the Crimes Act of 1914 was passed. The Act is based on the criminal law of England and of the several Australian States, and the subjects with which it deals are treason, offences relating to the administration of justice, offences relating to the coinage, forgery, offences by and against public officers, breach of official secrecy and espionage, and conspiracy in relation to Commonwealth law.

The powers of the Commonwealth Arbitration Court in relation to trade disputes have also been the subject of much doubt and much litigation. Cases have arisen in which a long and expensive litigation before the Arbitration Court has been followed by long and expensive litigation before the High Court, with the ultimate result that the Arbitration Court has been found to have exceeded its powers. By the new Conciliation and Arbitration Act the High Court is enabled to intervene at an earlier stage by issuing a writ of prohibition to the Arbitration Court.

These were the two most important among what may be called the peace-laws of the Commonwealth legislature. Its emergency legislation followed the same general lines as the emergency legislation of the United Kingdom. The Trading with the Enemy Acts and the Patents, Trade Marks and Designs Acts corresponded to the similar Acts passed at Westminster. The War Precautions Act was substantially identical with our Defence of the Realm Acts coupled with the Aliens' Restriction Acts.

A War Pensions Act provided for the grant of pensions on the death or incapacity of members of the Commonwealth forces and members of the Imperial Reserve Forces resident in Australia, and set up a Pensions Board for dealing with these matters. To meet the exigencies of finance the Commonwealth had to increase the rates of its land tax and its estate duties, and to levy increased excise and customs duties.

The legislation of the several Australian States dealt with sundry peace problems of various kinds. Thus, to take a few out of many instances, Queensland passed an Act embodying the principle of compulsory voting at parliamentary elections, an Act for the

detention and control of habitual criminals, and two Acts for the encouragement of co-operative enterprises.

Victoria relieved a Minister from vacating his seat on the acceptance of office, set up a Court of Criminal Appeal, and improved its law relating to the transfer of land. The Rights in Water and Irrigation Act of Western Australia laid down "novel principles of far-reaching importance." Among the Ordinances for Papua, which is not a State, is mentioned an Ordinance of 1913 for the preservation of Papuan antiquities.

But for a large proportion of State legislation the war was responsible. New taxation was necessary. Thus New South Wales increased its stamp duties and its income tax, and Western Australia raised the rate and graduated the scale of its land and income tax.

Several States adopted the principle of the *moratorium* by postponing or giving power to postpone the time for the payment of debts. Stringent powers were given for acquiring foodstuffs and other necessary commodities, and for fixing maximum prices. New South Wales set up a National Relief Board to administer funds raised for the relief of persons injured in great disasters or for patriotic purposes. It will be seen that all these measures have their parallels in the legislation of the United Kingdom.

The legislation of New Zealand was abundant and various. The legislature abolished the "appointed" Legislative Council, and substituted a Council elected on the principle of proportional representation, following the Tasmanian model. It altered the electoral laws by reducing the period of residence required as a qualification, and by making provision for enabling seamen to vote. It allowed borough councils to adopt the Tasmanian system of proportional representation for the election of borough councillors. It recast the whole of its education law relating to public schools, secondary schools, technical schools, and special schools. It set up a Board of Studies for the New Zealand University, and made provision for establishing University and national scholarships and bursaries, including research scholarships.

All this was in addition to the crop of legislation arising out of the war. The war emergency legislation included measures for regulating commerce in time of war, for enabling local authorities to contribute to war finance, for relieving mortgagors, for increasing

temporarily the powers of trustees, for setting up a system of State insurance against war risks on policies of marine insurance on gold bullion, and for punishing summarily acts deemed to be dangerous in time of war. This enumeration is not exhaustive, and implies a strenuous session of the legislature.

One of the thirty-two Fiji Ordinances set up a Defence Force.[1]

The admirable summary given by Mr. Matthews, K.C., of the laws passed by the Parliament of the Union of South Africa is so clear and concise that it is hardly necessary to do more than direct attention to its pages. The period was one of storm and stress, and the laws to which it gave birth were interesting and important. There were two sessions in 1914. The first began in January and ended in July. The second, a special war session, occupied a few days in September. The first two months of the long session were entirely spent on matters arising out of the industrial disturbances on the Witwatersrand Gold Fields in July 1913, and out of the railway strike of January 1914, which culminated in a general strike of skilled workmen. The January strike led to a proclamation of martial law, and that again to an Indemnity Act containing provisions of the usual South African type, coupled with provisions for validating the deportation of certain persons who had taken an active part in the disturbances and the strike. All the South African railways are Government railways, and all the persons employed on them are under disciplinary provisions embodied in an Act of 1912. After the railway strike a special Act had to be passed in 1914 in order to give special privileges to the railwaymen who had refused to strike, and to provide for the reinstatement of strikers who had returned to work.

Among the items of " miscellaneous " legislation noticed by Mr. Matthews, one of the most interesting is the Indians' Relief Act. It was based on the recommendations made by a judicial commission of inquiry after the Indian riots in Natal towards the end of 1913, and gives facilities for marriages between Indians, although the tenets of their religion recognise polygamous marriages.

Three important Acts are grouped under the head of " Industrial Matters." They all arose out of representations made by a deputation from trades unions after the termination of the Witwatersrand miners' strike. The Workmen's Wages Protection Act gives

[1] For other local defence forces, see the Index under "Royal Forces."

the workman further facilities for the recovery of wages, and, among other things, gives him a remedy not only against his employer, but also against the " principal " on whose behalf the employer has undertaken the work. The Workmen's Compensation Act follows the same principles as the English Act of 1906, but seems to have been modelled more closely on the Transvaal Act of 1907, which again was based on a Cape Act of 1905. The new features of the Act of 1914 and the general features of the law which it superseded are clearly explained by Mr. Matthews. The third of these three Acts was the Riotous Assemblies Act, which repealed certain statutory provisions in force at the time of the June and July riots in 1913, consolidated and codified the law as to the suppression of riots, and enacted provisions corresponding to those of the English Conspiracy and Law of Property Act of 1875. No useful purpose would be served by attempting to shorten Mr. Matthews' account of this enactment.

The financial legislation of 1914 was important, and included a Customs Tariff Act and an Income Tax Act for the whole Union, superseding the Acts for the several States. The Union legislature was also more fortunate than a famous English Chancellor of the Exchequer in imposing a tax on matches.

The special session of September 1914 was concerned exclusively with war matters. One Act appropriated out of loan funds additional money for war expenses. Another Act authorised the extension of a Union railway towards the frontier of German South-West Africa. A third Act dealt with currency and banking laws, but its provisions were temporary and were not put in force. The fourth and last Act of the session was entitled the Public Welfare and Moratorium Act, and was, as its title indicates, of a very comprehensive nature. It contained provisions enabling the Government to regulate the prices and to take possession of foodstuffs and other necessaries, to regulate or restrict the supply of intoxicating liquor, and to prohibit or restrict the publication of matter calculated to spread false intelligence or create alarm or excite public feeling, or of matter relating to precautions taken in the interest of public safety or the public welfare. It gives the Courts power to stay proceedings for the enforcement of money obligations and to extend the time for the fulfilment of such obligations. And, finally, it suspends all such remedies against a member of His Majesty's

forces or of the Union defence forces during his period of active service and for three months thereafter.

The Ordinances of the several States of the South African Union, of the two Rhodesias, of the amalgamated Nigerias, and of other parts of British Africa, present many interesting features, but the temptation to linger among them must be avoided here.

In Canada the Dominion Parliament held two sessions. In the first session it passed, among other Acts, two Acts dealing specially with loan companies and trust companies. The second session occupied four days in August, and was devoted exclusively to emergency legislation arising out of the war. The Parliament made grants for war purposes out of the Consolidated Revenue Fund, and passed a comprehensive War Measure Act corresponding to the English Defence of the Realm Acts, but expressed in more general terms. It empowered the Governor in Council to do and authorise such acts and things and to make such orders and regulations as might by reason of the existence of real or apprehended war, invasion, or insurrection be deemed necessary or advisable for the security, defence, peace, order, and welfare of Canada. "For greater certainty" it named certain classes of subjects to which the powers of the Governor in Council were to extend. Among these were censorship; arrest, detention, exclusion and deportation; control of harbours and ports; trading, exportation, importation, production, and manufacture; appropriation, control, forfeiture, and disposition of property, and of the use thereof. The Finance Act and the Dominion Notes Acts made special war provisions as to banking and currency.

Among the laws passed by the several Canadian Provinces may be noticed an Act of British Columbia, giving the State large powers over water rights, a general Act about municipalities, and an Act arising out of scandals attending the liquidation of certain trust companies. Ontario legislated about "political contributions" by corporations, liquor associations, and public contractors, increased its death duties, made special provisions about radium, electricity, and the advertisement of agricultural resources, and recast its law about compensation to workmen.

The liquor legislation of Saskatchewan was of a very stringent character, and aimed at withdrawing the "temptation formerly

spread through the community by drinking over bars and at putting an end to the treating habit." For this purpose the Sales of Liquor Act established a Government monopoly of the whole liquor business, took it entirely out of private hands, and provided for its management by a State commissioner. As the Sales of Liquor Act had "a tendency to render many places of public accommodation unprofitable," another Act provided means of supplementing private enterprise by furnishing such accommodation. Under the Act an official entitled the "director of public accommodation" was to be appointed, and was to have a provincial advisory council. Municipal councils were enabled to appoint accommodation boards, to enforce regulations for the conduct and management of hotels and other places of accommodation, to provide for the establishment of rest and reading rooms, for sample rooms, and for the care and maintenance of travelling libraries in connection with places of accommodation. A provincial grant was to be made for these purposes.

Whilst the legislation of the West Indies and of other Colonies not possessing responsible government must be passed over, it may be noted that the "Mediterranean Colonies" now include Egypt. In Egypt martial law was proclaimed early in the war by the General Officer commanding the Army of Occupation, and the regular work of the legislature was suspended during the last half of 1914. For the details of the "extraordinary legislation" arranged by Mr. Norman Bentwich under the two heads of "Economic Measures" and "Defence Legislation," reference must be made to his summary.

As to foreign legislation our contributors have supplied us with notes on Denmark, Norway, Sweden, France, Germany, and the United States. Dr. Schuster, to whom we are deeply indebted for his account of German legislation, encountered, as might be expected, serious difficulties in the performance of his task. For the legislation of 1913 the whole of the materials were at his disposal, but the official text of the statutes of 1914 ceased to be forwarded to him after the outbreak of the war. As regards the war legislation, he hopes that all the more important enactments published before the end of 1914 are referred to in his summary, and we must all share his hope that "some day—may it not be too distant!—when the ordinary channels of

communications are re-opened, it will be possible to fill up such gaps as have been left, and to follow the war legislation in its entire development."

The federal legislature of the United States passed laws aimed against unfair trade competition on the one hand and monopolies on the other, and abolished arrest and imprisonment as a penalty for desertion in the mercantile marine. The legislation of the several States illustrated the growing tendency to reform municipal government either by substituting a small Commission for a mayor and councillors, or by appointing a single "city manager" with large powers.

In concluding this very imperfect introductory note, the writer may be permitted to express the gratification which he felt when he was reminded that the Society of Comparative Legislation, which was founded in December 1894, attained its majority last month. Thanks to the zeal, industry, and ability of our contributors in different parts of the world, the ambitious task of recording the course of legislation throughout the British Empire and, so far as possible, in other parts of the civilised world, is now being performed more thoroughly and completely than he had ventured to hope when the task was first undertaken.

January 1916.

BRITISH EMPIRE.

I. BRITISH ISLES.

1. UNITED KINGDOM.

[*Contributed by* E. MANSON, ESQ.]

THE War Legislation of 1914 overshadowed the rest of the work of the Legislature during the year; but a number of useful Acts were passed. Two of the first importance—the Government of Ireland Act and the Welsh Church Act—were placed formally on the statute book; but their operation is postponed—owing to the suspension of political controversy.

The Welsh Church Act.—At the date—to be hereafter fixed—for disestablishment, the Church of England, so far as it exists in Wales and Monmouthshire—succinctly described as the Church in Wales—is to cease to be established by law. Every cathedral and ecclesiastical corporation in the Church of Wales, whether sole or aggregate, is to be dissolved.

A Representative Body of the Disestablished Church may, however, be constituted by the bishops, clergy, and laity, and may frame regulations for the general management and good government of the Church, and to this Representative Body, when constituted, the property comprised in the first, second, and third schedules is to be transferred.

Pending the creation of the Representative Body, the property is to vest in a body called the "Welsh Commissioners."

Provision is made for such commissioners, among their other duties, to compensate lay patrons of benefices in respect of the loss of the right of patronage, and to commute the interests of the holder of an ecclesiastical office.

The law relating to marriages in the Church of England is to cease to be in force in Wales and Monmouthshire, and in lieu thereof the Marriage Acts, 1811 to 1898, relating to marriages in registered buildings are to apply.

There are also special provisions as to burial-grounds.

The Act is a model of concise drafting.

The Government of Ireland Act.—"On and after the appointed day" (appointed by order of the King in Council), "there shall be in Ireland an Irish Parliament consisting of His Majesty the King and two Houses, namely, the Irish Senate and the Irish House of Commons." These are the memorable words, enshrined in the first section of the Act.

The new Irish Parliament is to have power to make laws (subject to reservation in certain matters) for the peace, order, and good government of Ireland.

The executive authority is to continue vested in His Majesty the King.

The Irish Senate is to consist of 40 members, elected by the four provinces of Ireland as separate constituencies. A senator's term of office is five years. The Irish House of Commons is to consist of 164 members. It is to have continuance—unless sooner dissolved —for five years. The number of members to be returned by constituencies in Ireland to serve in the Parliament of the United Kingdom is to be 42.

Finance.—There is to be an Irish Exchequer and an Irish Consolidated Fund separate from those of the United Kingdom.

The Irish Parliament is to have power to vary any Imperial Act so far as respects the levy of taxation in Ireland and to impose (subject to certain qualifications) any independent tax.

Judges are to be appointed by the Lord-Lieutenant. The appeal from Courts in Ireland to the House of Lords ceases; but there is substituted a right to appeal to the King in Council.

Then comes a comprehensive clause (s. 38): "All existing laws, institutions, and authorities in Ireland, whether judicial, administrative, or ministerial, and all existing taxes in Ireland shall, except as otherwise provided by this Act, continue as if this Act had not passed, but with the modifications necessary for adapting them to this Act."

Here, one foresees, is plenty of work in store for the Courts!

Bankruptcy.—Thirty years have elapsed since the principal Act on this subject was passed, and although in that time the working of the Act, under the searchlight of judicial criticism, has revealed the need of a good many alterations of detail, the organic principles of the system introduced by the Act of 1883 remain the same.

The new Act (c. 59) is a mere bundle of miscellaneous amendments. Read by itself, it conveys little that is intelligible to the layman. Its sections are like the missing bits in a Chinese puzzle, and their significance is only apparent when they are fitted into the framework of the principal Act. But the amendments do away with a number of useless technicalities in the older Acts of 1883 and 1890, and various anomalies resulting from their interpretation.

Married Women.—For instance, a bankruptcy notice could not be issued against a married woman, because technically a judgment was not against her *personally* but only against her separate estate. The coveted equality with man on this point is now hers. So, too, she now obtains the privilege of bankruptcy, whether she is carrying on a trade or business separately from her husband or not; thus an end is put to a matter which has given the Courts infinite trouble—the question of what is "separate trading."

Moreover, what has long been sauce for the goose is now made sauce for the gander; a husband cannot prove for a loan to his wife in her bankruptcy, in competition with her creditors, any more than she can in his.

Apropos of a bankruptcy notice, another technicality goes. Formerly it could only issue on a "final judgment," and the astutest bankruptcy lawyer could not define what a "final judgment" was. Now a final order or a sum ordered to be paid will do.

The meaning of "debtor" under the Acts is also very much enlarged. A person is made amenable to the bankruptcy law, whether a British subject or not, if at the date of committing an act of bankruptcy he was personally present in England or ordinarily resided there, or carried on business in England personally or by means of an agent or manager, or was a partner in a firm which carried on business in England.

After-acquired Property.—One of the chief developments of bankruptcy law in recent times has been in regard to after-acquired property, and it furnishes a very curious illustration of a body of

judge-made law engrafting itself on a statute. *Cohen* v. *Mitchell* [1] is the leading case, and the principle of the decision is briefly that, though a trustee in bankruptcy can claim the property of the bankrupt acquired after adjudication, it is not till he *does* intervene and claim it, if in the meanwhile the bankrupt has dealt in respect of the property with any one acting *bona fide* and for value, such dealing is good against the trustee, the policy of English law being always to protect the title of a *bona fide* purchaser for value, even from a bankrupt. The new Act gives statutory sanction to this "common law of bankruptcy." Also it protects, as a purchaser for value, the banker dealing with a bankrupt's balance representing after-acquired property.

In the matter of the bankrupt's property there are one or two other points meriting attention. Thus, if the trustee finds goods of the bankrupt in pawn, he is to be entitled to inspect the goods, in order to judge whether they are worth redeeming or not. If, again, a copyright forms part of the bankrupt's property, the trustee is not to sell it except on the terms of paying the author the royalties that would have been payable. In other words, the author is given a lien on his work, and is not relegated to the forlorn hope of "proving." The registration of a general assignment of his book-debts by a trader is a requirement with which no one can quarrel. If an assignment of goods is to be registered under the Bills of Sale Acts, why not one of book-debts?

Bankruptcy Offences.—The vice of the age is reflected in the Act. Hitherto it has been a minor, and even a venial offence, that the bankrupt has brought on his bankruptcy by rash or hazardous speculations, or by gambling. Now such conduct is transferred to the category of serious offences under s. 11 of the Debtors Act, 1869, and the Court must refuse such a debtor his discharge unless for "special reasons." On the other hand, the fact that a bankrupt has not paid 10*s.* in the pound, though it is still one of the things which the Official Receiver, as *advocatus diaboli*, may bring up against him on his application for discharge, is not—standing alone—to make it obligatory on the Court to suspend, as heretofore, his discharge for two years at least. The power to prosecute bankruptcy offences summarily is likely to have a very salutary effect on delinquent debtors.

[1] L.R. 25 Q.B.D. 262.

Deeds of Arrangement.—As showing the drift of things, the sections of the Act dealing with deeds of arrangement are interesting and significant. The deed of arrangement, or, as it is popularly called the "creditor's deed," has grown and is growing in a remarkable way. Administrations under it outnumber bankruptcies, and the volume of assets dealt with is much larger: and no wonder. There is everything to commend it to the business man as the best way out of financial difficulties. It avoids the publicity and quasi-criminal procedure incident to bankruptcy, and saves commercial credit from being irretrievably tarnished in that Court. Hitherto the Legislature has done little more than require such deeds to be registered. The new Act may be said to formulate a system. A deed is to be void unless, within twenty-one days of registration, it has been assented to by a majority in number and value of the creditors. The difficulty hitherto has been with the dissentient or non-assenting creditor. The deed being an act of bankruptcy, it was open to such a dissentient at any time within three months of the execution to present a bankruptcy petition founded on it, and so upset the whole arrangement. Now a creditor is given one month after notice to make up his mind whether he will come in or not. If he fails to elect, he debars himself from presenting a bankruptcy petition. A trustee must give security, send periodical accounts to the Board of Trade, and submit to an audit. Any preferential treatment of one creditor over others by a trustee is made a misdemeanour.

Children.—The growing solicitude for the welfare of children as *spes gentis* is noticeable in a number of Acts.

Feeding Acts.—By c. 20 a local education authority may feed the children without going through the formality of an application to the Board of Education. By c. 35 a local authority in Ireland may aid in the provision of meals for children, the parent—unless unable to pay—to be liable for the charge of the meals as fixed by the local authority.

Defective Children.—By c. 45 provision is to be made for the education of defective or epileptic children over seven.

Young Offenders.—By c. 58 (Criminal Justice Administration Act), youthful offenders may be sent to Borstal Institutions in lieu of imprisonment.

Milk.—By c. 46 (Milk and Dairies, S.) a local authority may

establish depots for the sale of milk, specially prepared for consumption by infants under two years of age.

Merchant Shipping.—On January 20, 1914, an International Convention for the safety of Life at Sea was signed in London. C. 50 is an Act for the purpose of amending the law relating to Merchant Shipping, so as to give effect to the articles of the Convention.

Emergency Legislation.[1]

[*Contributed by* Sir Courtenay Ilbert, G.C.B., *and* C. E. A. Bedwell, Esq.]

Declaration of War.—On Tuesday, August 4, 1914, His Majesty's Government notified from the Foreign Office that a state of war existed between the United Kingdom and Germany as from 11 p.m. that day.[2] Before August 4 our country was in a state of peace. As from that date it was in a state of war. A declaration of war with Austria-Hungary followed on August 12,[3] and with Turkey on November 5.[4]

But for some days before August 4 our country had been in a state of danger. The menacing aspect of our foreign relations, the imminent risk of war, and the consequent disturbance of the public mind, had made it necessary to take steps of a precautionary and preliminary character.

Aerial Precautions.—Thus, on Saturday, August 1, the Postmaster-General, acting under powers given by the statutory regulations under the Wireless Telegraphy Act, 1904,[5] gave public notice that, in the opinion of the Secretary of State for the Home Department, an emergency had arisen in which it was expedient for the public service that His Majesty's Government should have control over the transmission of messages by wireless telegraphy, and that

[1] The references in the following pages to the "*Manual*" are to the "*Manual of Emergency Legislation*," published by H.M. Stationery Office. To it have been added several supplements. The first was incorporated in and superseded by the second, so that there are no references to it. For the completion of the month of December 1914 reference must be made to the third Supplement, of which the greater portion applies to the year 1915. The citations are respectively *Manual*, Supplement No. 2 and *Manual*, Supplement No. 3. The pagination is continuous, and the index in the latter is an index to both.

[2] *Manual*, p. 1.

[3] *Ibid.* p. 1.

[4] *Manual*, Suppl. No. 2, p. 1.

[5] 4 Ed. VII. c. 24.

the use of wireless telegraphy on board foreign ships whilst in the territorial waters of the British Isles should be subject to rules made by the Admiralty. Accordingly on the same day, the Admiralty, by regulation, prohibited the use of wireless telegraphy in the harbours and territorial waters of the United Kingdom and the Channel Islands, and directed the disconnection of aerial wires.[1]

On the following day (August 2) the Home Secretary, acting under powers given by the Aerial Navigation Acts, 1911 and 1913,[2] prohibited the navigation of aircraft of every class and description over the whole area of the United Kingdom, and over the whole of the coast-line thereof and territorial waters adjacent thereto. There were exceptions for naval or military aircraft, for aircraft flying under naval or military orders, and for aircraft flying within three miles of a recognised aerodrome.[3]

Financial Arrangements.—On the same Sunday, August 2, the King issued a Proclamation which, after stating that in view of the critical situation in Europe, and the financial difficulties caused thereby, it was expedient to postpone the payment of certain bills of exchange, directed that if a bill of exchange, other than a cheque or bill on demand, had been accepted before August 4, and was accepted in the prescribed form, it should be deemed to be due and payable, with additional interest, on a date one calendar month after the date of its original maturity.[4]

Monday, August 3, was one of the usual Bank Holidays, and on that day proclamations were issued, appointing August 4, 5, and 6 to be additional bank holidays, and thus suspending for a further period the transaction of financial business.[5]

On the same Monday the Postponement of Payments Act, 1914,[6] which was to remain in force for six months, was run through Parliament, and received the Royal Assent. It gave the King general power to postpone, by Proclamation, payment of any bill of exchange, or of any negotiable instrument, or any other payment in pursuance of any contract.

Naval and Military Preparations.—On the same day, August 3, Proclamations were issued calling out the men of the Royal Naval Reserve and Royal Fleet Reserve, and the officers and men of the

[1] *Manual*, p. 402.
[2] 1 & 2 Geo. V. c. 4 and 2 & 3 Geo. V. c. 22.
[3] *Manual*, p. 47.
[4] *Manual*, p. 238.
[5] *Ibid.* pp. 99, 100.
[6] C. 11. *Manual*, p. 5.

Royal Naval Volunteer Reserve,[1] extending the service of time-expired men in the Royal Navy,[2] authorising the Admiralty to requisition any British ship or British vessel within the British Isles or adjacent waters,[3] and prohibiting the exportation of certain war-like stores,[4] and an Order in Council was made calling officers of the reserved and retired lists of the Navy into active service, and suspending compulsory retirement from the active navy list.[5] It will be remembered that the Grand Fleet had been assembled for the recent manœuvres, and, fortunately, had not been dispersed when the war broke out.

On Tuesday, August 4, the day at the end of which war was declared, the King issued Proclamations calling out the Army Reserve and embodying the Territorial Force,[6] continuing soldiers in army service,[7] and specifying articles to be treated as contraband of war.[8] On the same day an Order in Council was made, giving the Government control of the railroads of Great Britain, and the Secretary of State issued his warrant empowering the President of the Board of Trade to take possession of all such railroads, excluding tramways.[9] The King made orders authorising general and field officers to issue billeting requisitions [10] and requisitions of emergency,[11] and similar orders were made by the Lord-Lieutenant of Ireland.[12] An Army Order was made promulgating special rates for billeting.[13]

Treatment of Enemy Shipping.—Another Order in Council of the same date,[14] taking cognisance of the state of war then existing, ordered the detention, from and after the date of the publication of the order, of enemy—*i.e.* German—ships, in any British port, or in any port in any Native State in India, or any of His Majesty's

[1] *Manual*, p. 206.
[2] Under 16 & 17 Vict. c. 69, s. 9. *Manual*, p. 205.
[3] *Ibid.* p. 386.
[4] Under 42 & 43 Vict. c. 21, s. 8. *Manual*, p. 160.
[5] *Ibid.* p. 206.
[6] Under s. 12 of the Reserve Forces Act, 1882, and s. 17 of the Territorial and Reserve Forces Act, 1907. *Manual*, p. 87.
[7] Under s. 88 of the Army Act. *Manual*, p. 86.
[8] *Ibid.* p. 108. The list of contraband articles was subsequently amended.
[9] Under s. 16 of the Regulation of the Forces Act, 1871 (34 & 35 Vict. c. 86). *Manual*, pp. 368, 369.
[10] Under s. 108 of the Army Act. *Manual*, p. 88.
[11] Under s. 115 of the Army Act. *Manual*, p. 90.
[12] *Ibid.* pp. 88, 91.
[13] Under s. 108 of the Army Act. *Manual*, p. 89.
[14] *Ibid.* p. 138.

Protectorates, or in any State under His Majesty's protection, or in Cyprus. The Order made provision for allowing the usual ten "days of grace" for loading, unloading, or departure of enemy ships. But this privilege was not to extend to cable ships, or to sea-going ships designed to carry oil fuel, or to ships whose tonnage exceeded 5,000 tons gross, or whose speed was 14 knots or over. Nor was it to extend to any enemy ship unless the Secretary of State was satisfied by information reaching him not later than midnight on August 7 that the treatment accorded to British merchant ships and their cargoes by Germany was not less favourable than that granted to German ships by the British Order in Council. The Secretary of State was not so satisfied,[1] and consequently the days of grace were not allowed to German ships. When a similar Order in Council was made on August 12 with respect to Austro-Hungarian ships,[2] the Secretary of State was so satisfied within the required time,[3] and consequently the days of grace which had been refused to German ships were allowed to Austro-Hungarian ships.

Defence of the Realm.—Lastly, on the same August 4, the King issued a general Proclamation regarding the defence of the realm.[4] "Whereas," it recites, "by the law of our realm it is our undoubted prerogative and the duty of all our loyal subjects, acting in our behalf in times of imminent national danger, to take all such measures as may be necessary for securing the public safety and the defence of our realm, and whereas the present state of public affairs in Europe is such as to constitute an imminent public danger," therefore, it goes on to say, "we strictly command and enjoin our subjects to obey and conform to all instructions and regulations which may be issued by us or our Admiralty or Army Council, or any officer of our Navy or Army, or any other person acting in our behalf for securing the objects aforesaid, and not to hinder or obstruct, but to afford all assistance in their power to, any person acting in accordance with any such instructions or regulations or otherwise in the execution of any measures duly taken for securing those objects."

This Proclamation had, of itself, no further legal effect than could be based on the doubtful and uncertain foundation of the royal

[1] See *Manual*, p. 141.
[2] *Ibid.* p. 97.
[3] See *Manual*, p. 142.
[4] *Ibid.* p. 145.

prerogative, but it declared broadly certain general principles to which regard was had in framing subsequent Acts, orders, and regulations, and, in that sense, struck the keynote of much of the legislation which followed.[1]

The Character of Emergency Legislation.—After August 4 emergency legislation flowed in a rapid and copious stream. It assumed various forms: Acts of Parliament, Orders in Council, orders and regulations having the force of law. These trod on each other's heels, jostled each other, amended, supplemented, or superseded each other. They were framed rapidly, to meet exigencies which arose suddenly, which had not been foreseen, and which, owing to the limitations of human intelligence, could not have been foreseen. They were passed rapidly. In Parliament the ordinary rules of legislative procedure were superseded. An Act of Parliament might be introduced without notice, passed through all the stages in each House within a few hours, and receive the Royal Assent before the end of the day. Measures so framed were necessarily tentative, experimental, imperfect, often transitory. Their subject-matter was of the greatest variety. The war had touched the life, the property, the duties, rights, and interests of citizens at every point. The officers, civil and military, of the State had to be armed with exceptional powers for maintaining order and averting danger, and additions had to be made to their numbers. The foundations of credit and mutual confidence on which all economic relations are based had been suddenly and violently shattered, and some provision had to be made for meeting the financial emergencies which had arisen. The procedure of courts of law had to be modified, so as to adapt normal rights and remedies to abnormal conditions. Citizens had been transferred by thousands from avocations of peace to avocations of war, or incidental to war, and provision had to be made for their new needs, and for the needs of those whom they left behind them. These were some of the problems which had to be dealt with, and their nature and aspect were subject to daily change. Thus the subject-matter of legislation was *ondoyant et divers*. As such, it baffles attempts at scientific classification and arrangement. No one set of pigeon-holes will fit or suffice for the various and shifting

[1] See, in particular, the language in which the powers of the King in Council were subsequently declared and confirmed by the Defence of the Realm Acts, 1914 (4 & 5 Geo. V. c. 29, and 5 Geo. V. c. 8).

categories. Each observer and inquirer is apt to have his own focus, his own point of view. This being so, perhaps the least unsatisfactory plan is to trace the career of legislation as it proceeds, to depict it as in a cinematograph, with the unsatisfactory substitution of dry summaries for moving pictures. It is assumed that what the reader wants to know is, how the problems arising out of the war were met, as they arose, by legislation, in what respects existing powers for dealing with them were deficient, and what new powers were created. This is the plan on which the following summary has been prepared. It is a narrative, not a statement of results. It is a brief legislative chronicle for a particular period, differing from the usual summary of legislation which appears annually in this Journal by the inclusion of Orders in Council and statutory rules and orders.

Perhaps it may aid the reader if he is reminded that the year 1914 included the whole of one parliamentary session and part of another. The first of the two sessions began on February 10 and ended on September 18, 1914. The second began on November 11, 1914, and is still in continuance whilst these lines are being written. The numbering of the Acts, or chapters, is for each session. The earliest emergency Act of the first session is chapter 11 (passed August 3, 1914). The latest of the emergency Acts passed in the second session before the end of 1914 is c. 20 (passed November 27, 1914).

Aliens' Restriction.—The first of the emergency Acts which was passed after the declaration of war dealt with the important subject of aliens. The Aliens' Restriction Act, 1914,[1] which was run through all its stages and received the Royal Assent on August 5, empowered His Majesty, at any time when a state of war exists between His Majesty and any foreign Power, or when it appears that an occasion of imminent national danger or great emergency has arisen, to impose by Order in Council restrictions on aliens, and to make by the Order provision:

(*a*) For prohibiting aliens from landing in the United Kingdom, either generally or at certain places, and for imposing restrictions or conditions on aliens landing or arriving at any port in the United Kingdom; and

(*b*) For prohibiting aliens from embarking in the United Kingdom,

[1] 4 & 5 Geo. V. c. 12 (*Manual*, p. 6).

either generally or at certain places, and for imposing restrictions and conditions on aliens embarking or about to embark in the United Kingdom; and

(*c*) For the deportation of aliens from the United Kingdom; and

(*d*) For requiring aliens to reside and remain within certain places or districts; and

(*e*) For prohibiting aliens from residing or remaining in any areas specified in the Order; and

(*f*) For requiring aliens residing in the United Kingdom to comply with such provisions as to registration, change of abode, travelling, or otherwise as may be made by the Order; and

(*g*) For the appointment of officers to carry the Order into effect and for conferring on such officers and on the Secretary of State such powers as may be necessary or expedient for the purposes of the Order; and

(*h*) For imposing penalties on persons who aid or abet any contravention of the Order, and for imposing such obligations and restrictions on masters of ships or any other persons specified in the Order as appear necessary or expedient for giving full effect to the Order; and

(*i*) For conferring upon such persons as may be specified in the Order such powers with respect to arrest, detention, search of premises or persons, and otherwise, as may be specified in the Order, and for any other ancillary matters for which it appears expedient to provide with a view to giving full effect to the Order; and

(*k*) For any other matters which appear necessary or expedient with a view to the safety of the realm.

The maximum penalties for contravention or failure to comply with the provisions of the Order were a fine of £100 or six months' imprisonment. These penalties could be imposed by a Court of summary jurisdiction, and the Court could also require the person charged to enter into recognisances for complying with the provisions of the Order.

The provisions of an Order in Council under the Act might relate either to aliens in general or to any class or description of aliens. The burden of proving that a person charged was not an alien or not an alien of a particular class was to lie upon him. The powers given by the Act or by any Order in Council under it were to be in addition and without prejudice to any other powers lawfully exerciseable with respect to aliens.

Under this Act four successive Orders in Council were made on August 5, 10, 12, and 20,[1] but these were all superseded and repealed by the Aliens' Restriction (Consolidation) Order of September 9,[2] which again was amended and supplemented by Orders in Council of October 8[3] and November 28,[4] and by order of the Secretary of State[5] under the Consolidation Order. The Order in Council of October 8 prohibited the change of name by aliens, and that of November 28 made special provision for Belgian refugees.

Prize Courts.—A second Act which was passed through all its stages on August 5 was the Prize Courts Procedure Act, 1914.[6] Under the Prize Courts Act, 1894,[7] there was power to make, by Orders in Council, rules regulating the procedure in prize courts, and the new Act provided that, as from the date when these rules were made, certain procedure provisions of the Naval Prize Act, 1864,[8] should be repealed. These new rules had already been prepared, and were brought into force by an Order in Council of August 5.[9] On the same day, August 5, an Order in Council was made, authorising the constitution of a prize court for dealing with matters arising out of the war with Germany.[10]

Five important Proclamations were issued on the same day (August 5).

Trading with the Enemy.—The Proclamation as to trading with the enemy[11] was an affirmation of the common law rules on the subject. It stated that a state of war existed between His Majesty and the German Emperor, that it was contrary to law for any person resident, carrying on business, or being in the King's dominions to trade or have any commercial intercourse with any person resident, carrying on business, or being in the German Empire without the King's permission, and it was therefore expedient and necessary to warn persons of their duties and obligations.

[1] *Manual*, pp. 48–67.
[2] *Ibid.* p. 68.
[3] *Ibid.* p. 515.
[4] *Ibid.* Suppl. No. 2, p. 45.
[5] See *Manual*, Suppl. No. 2, p. 35.
[6] 4 & 5 Geo. V. c. 13 (*Manual*, p. 8).
[7] 57 & 58 Vict. c. 39.
[8] 27 & 28 Vict. 25.
[9] *Manual*, p. 256. The rules came into operation immediately, but were subsequently amended (see *Manual*, p. 366; *Manual*, Suppl., No. 2, pp. 176, 178).
[10] *Manual*, p. 248.
[11] *Ibid.* p. 375. Extended to Austria-Hungary by Proclamation of August 12 (*Manual*, p. 27), superseded and revoked by Proclamation of September 9 (*Manual* p. 378).

It accordingly warned all persons resident, carrying on business, or being in the King's dominions :—

> "Not to supply to or obtain from the said Empire any goods, wares, or merchandise, or to supply to or obtain the same from any person resident, carrying on business, or being therein, nor to supply to or obtain from any person any goods, wares, or merchandise for or by way of transmission to or from the said Empire, or to or from any person resident, carrying on business or being therein, nor to trade in or carry any goods, wares, or merchandise destined for or coming from the said Empire, or for or from any person resident, carrying on business, or being therein ;
>
> "Nor to permit any British ship to leave for, enter, or communicate with any port or place of the said Empire ;
>
> "Nor to make or enter into any new marine, life, fire, or other policy or contract of insurance with or for the benefit of any person resident, carrying on business, or being in the said Empire, nor under any existing policy or contract of insurance to make any payment to or for the benefit of any such person in respect of any loss due to the belligerent action of His Majesty's forces or of those of any ally of His Majesty ;
>
> "Nor to enter into any new commercial, financial, or other contract or obligation with or for the benefit of any person resident, carrying on business, or being in the said Empire."

Exports.—Another Proclamation of August 5 prohibited British vessels from carrying contraband of war from one foreign port to any other foreign port.[1]

A third, issued under ss. 1–8 of the Customs and Inland Revenue Act, 1879,[2] prohibited the exportation from the United Kingdom of certain warlike stores, provisions, and victuals.[3] A fourth, issued under s. 1 of the Exportation of Arms Act, 1900,[4] prohibited the exportation from the United Kingdom to certain countries of warlike stores enumerated in a long list.[5] And a fifth notified that British subjects contributing to a loan raised on behalf of the German Emperor or contracting with the German Government would be guilty of high treason as adhering to the King's enemies.[6]

[1] *Manual*, p. 110.

[2] 42 & 43 Vict. c. 21 (*Manual*, p. 164).

[3] *Manual*, p. 175.

[4] 63 & 64 Vict. c. 44.

[5] *Manual*, p. 162. List varied by subsequent Proclamations and Orders in Council (see *Manual*, pp. 168, 172, 175, 520).

[6] *Manual*, p. 177. Extended on August 12 to Austria-Hungary (*Manual*, p. 97).

Currency.—On August 6 was passed the Currency and Bank-notes Act,[1] authorising the Treasury to issue one pound and ten shilling currency notes, which were to be legal tender as equivalents of sovereigns and half-sovereigns. Postal orders might be temporarily used as substitutes for currency notes. The same Act authorised banks of issue to issue, subject to certain conditions, bank-notes in excess of any limit fixed by law. It was amended[2] on August 28 so as to permit the Treasury to call in some of the notes issued under its authority, and substitute others in their place.

Postponement of Payments.—On the same day (August 6) was issued the first general Proclamation[3] under the Postponement of Payments Act, 1914. It extended to other negotiable instruments, and to certain payments under contract, the operation of the postponing Proclamation of August 2, but contained a long list of payments, including payments in respect of wages or salary, to which the Proclamation was not to apply.

Electoral Disabilities.—On August 7 three more Acts were passed. One of these[4] relieved the numerous citizens who had taken up military duties from the electoral disqualification arising from absence from home. Among other things, it enabled lodger claims to be made on behalf of absentees.

Military Requisitions.—Another Act[5] enabled military authorities to requisition food, forage, and stores for military purposes.

Patents.—A third Act, the Patents, Designs, and Trade Marks (Temporary Rules) Act,[6] authorised the Board of Trade to make rules for avoiding or suspending patents or licences granted to alien enemies. The rules were issued on August 21,[7] and on the 28th the Act was amended by another Act[8] which extended the power to make temporary rules.[9]

[1] Chapter 14 (*Manual*, p. 9).

[2] Currency and Bank-notes (Amendment) Act, c. 72 (*Manual*, p. 29).

[3] *Manual*, p. 239. The Proclamation was much varied by subsequent proclamations. See, *e.g.*, *Manual*, pp. 241, 242, 244, 246.

[4] Electoral Disabilities (Naval and Military Service) Removal Act, 1914, c. 25 (*Manual*, p. 11).

[5] C. 26 (*Manual*, p. 11). [6] C. 27 (*Manual*, p. 12). [7] *Manual*, pp. 226, 230.

[8] Patents, Designs, and Trade Marks Temporary Rules (Amendment) Act, 1914 (*Manual*, p. 30).

[9] The Designs (Temporary) Rules were made under this Act on September 5 (*Manual*, p. 233), and the Patents and Designs (Temporary) Rules on September 7 (*Manual*, p. 236).

Defence of the Realm.—On August 8 was passed the first of the series of Defence of the Realm Acts [1] included in the emergency measures. It empowered the King in Council to issue regulations as to the powers and duties of the Admiralty and Army Council, and of the members of His Majesty's forces, and other persons acting in his behalf, for securing the public safety and the defence of the realm; and, by such regulations, to authorise the trial by courts-martial and punishment of persons contravening any of the provisions of such regulations designed:

(*a*) To prevent persons communicating with the enemy or obtaining information for that purpose or any purpose calculated to jeopardise the success of the operations of any of His Majesty's forces or to assist the enemy; or [to prevent the spread of reports likely to cause disaffection or alarm, or]

(*b*) To secure the safety of any means of communication, or of railways, docks, or harbours;

in like manner as if such persons were subject to military law, and had on active service committed an offence under s. 5 of the Army Act.

An Act passed on August 28 [2] added the words in brackets to paragraph (*a*), and added powers for securing the safety of areas required for training or concentration of the forces, and power to suspend existing restrictions on the exercise of statutory powers under the Defence Acts, 1842 to 1875, or the Military Lands Acts, 1891 to 1903.

Pensions and Allowances.—Two Acts passed on August 10 dealt with pensions and allowances. Chapter 30 [3] made provision in case of injury, temporary or fatal, for the large number of men who in various capacities supplement at sea the work of the Navy and Army. By Order in Council [4] of the same date the Act was applied retrospectively from August 3. This Act was extended by another [5] passed on November 27 which made similar provision for men employed on shore. It authorised the grant of pensions in cases of injury, and allowances to widows and

[1] C. 29 (*Manual*, p. 13). [2] C. 63 (*Manual*, p. 22).
[3] Injuries in War (Compensation) Act (*Manual*, p. 14).
[4] *Manual*, p. 182.
[5] Injuries in War Compensation Acts, 1914 (s. 2), c. 18 (*Manual*, Suppl. 2, p. 31).

other dependents in the case of men killed or dying within two years as the result of injuries sustained on duty. The second Act of August 10 [1] authorised the grant of allowances and gratuities to police reservists called out upon permanent service, and by a later Act [2] was extended to members of the police force re-entering the Navy or Army. A similar Act was passed for Ireland on September 18.[3]

Food Supplies.—In the week following the declaration of war there was a rush for supplies of provisions, and some risk of attempts to "corner" certain kinds of provisions. Accordingly the Unreasonable withholding of Food Supplies Act [4] gave to the Board of Trade powers, similar to those possessed by the naval and military authorities, for requisitioning food in the interests of the civil population. This Act was on August 28 superseded by the Articles of Commerce (Returns, etc.) Act,[5] which authorised a stocktaking of the available supplies of articles of commerce. Under this Act, if the Board of Trade found anything being improperly withheld, possession could be taken at a price decided to be reasonable, in default of agreement, by a Judge of the High Court; but, before taking action, the Board must have obtained, or endeavoured to obtain, the returns required by the Act. On September 17 [6] a Proclamation was issued under the Act giving to the Board of Trade power to take possession of supplies believed to be unreasonably withheld, and power to search for such supplies.

Unemployment.—By a Housing Act,[7] passed on August 10, the Board of Agriculture and Fisheries and Local Government Boards for England and Scotland were empowered to acquire land and spend money for housing purposes, and for these purposes the Treasury was authorised to advance up to £4,000,000 to the departments concerned. This Act, which had been passed, it was understood, in anticipation of unemployment, especially in the building trades, was afterwards extended to Ireland.[8]

[1] Police Reservists (Allowances) Act, c. 34 (*Manual*, p. 15).
[2] Police Constables (Naval and Military Service) Act, 1914, c. 80 (*Manual*, p. 38).
[3] Irish Police Constables (Naval and Military Service) Act, c. 84 (*Manual*, p. 41).
[4] C. 51 (*Manual*, p. 16).
[5] C. 65 (*Manual*, p. 23).
[6] *Manual*, p. 96.
[7] C. 52 (*Manual*, p. 17).
[8] By c. 71 (*Manual*, p. 29).

Special Constables.—The last [1] of the series of Acts passed on August 10 extended the powers for appointing special constables in Scotland.

Defence of the Realm.—On August 12 the first series [2] of regulations under the Defence of the Realm Act [3] were made by the King in Council. The general regulations which formed Part I. were prefaced by a statement that—

> "The ordinary avocations of life and the enjoyment of property will be interfered with as little as may be permitted by the exigencies of the measures required to be taken for securing the public safety and the defence of the realm, and ordinary civil offences will be dealt with by the civil tribunals in the ordinary course of law."

The regulations required all persons exercising powers under them to observe these general principles.

The regulations went on to give the "competent naval or military authority," as defined thereby, comprehensive powers to take certain steps "when for the purpose of securing the safety of the realm it is necessary to do so." For this purpose they were empowered to take possession of land and buildings, construct military works, place buildings or structures in a state of defence or destroy them, remove or destroy property, and generally "to do any other act involving interference with rights of property which is necessary for the purpose aforesaid." Powers were also given to remove or destroy or require the removal or destruction of vehicles, boats, vessels, and all forms of equipment and warlike stores within a specified area, to call for lists of such articles, specifying particulars, to require the removal of inhabitants from an area in or near a defended harbour, and to restrict the hours of sale of intoxicating liquors in any such area. The regulations prohibited the obstruction of or interference with or withholding information from persons armed with these powers, and imposed a positive duty of supplying information about unlawful possession or custody of firearms, ammunition, dynamite, or other explosives. Powers were given to arrest without warrant, and provision was made for the detention until trial of persons arrested.

[1] Special Constables (Scotland) Act, c. 53, (*Manual*, p. 19).
[2] *Manual*, p. 146.
[3] See *supra*, p. 16.

Part II. of the regulations was specially designed to prevent persons communicating with the enemy, obtaining information for disloyal purposes, and securing the safety of the means of communication, as well as of the docks and harbours.

Amongst other things prohibited was the unauthorised publication or communication of information about the movement of troops, transport of war materials, plans of naval or military operations, works or measures for fortification or defence and the like, or the making of photographs or sketches of naval or military works. Further provisions prohibited interference with telegraphic or telephonic communication, "treating" any member of His Majesty's forces in order to obtain information, possession of explosives near a railway, dock, or harbour, showing any light or fire near a harbour, lights in houses, and being out of doors without a permit after hours specified in an order made by the naval or military authorities.

Declaration of London.—An Order in Council [1] made on August 20 adopted the Declaration of London as containing the rules to be observed by His Majesty's Government during the present war, but subject only to some important modifications and additions. In particular it substituted the lists of absolute and conditional contraband already proclaimed [2] for those contained in the Declaration of London.[3] The Order in Council was re-enacted by another on October 29 with amendments "to minimise, so far as possible, the interference with innocent neutral trade occasioned by the war."[4]

War Loan.—On August 28 another set of Acts received the Royal Assent. The first of the War Loan Acts [5] authorised the Treasury to raise a loan of unlimited amount and "in such manner as the Treasury may think fit," thus differing from the Act [6] passed during the South African War, which limited both the amount and the methods of raising it.

Special Constables.—Another Act [7] gave power to make regulations with respect to special constables appointed under the Special

[1] *Manual*, p. 143.

[2] See *supra*, p. 14.

[3] These lists were subsequently varied by later Proclamations. As to the variations see article on "Contraband of War," by G. G. Phillimore, Journal, vol. xv. p. 253.

[4] *Manual*, Suppl. 2, p. 78.

[5] War Loan Act, c. 60 (*Manual*, p. 20).

[6] 63 Vict c. 2.

[7] Special Constables Act, c. 61 (*Manual*, p. 20)

Constables Act, 1831, or under the Municipal Corporation Act. The regulations [1] which were issued on September 9 gave power to appoint special constables during the present war at any time, and not merely for dealing with tumult, riot, or felony. Their duties are to help in the preservation of the public peace, the protection of inhabitants, and the security of property. They act under the control of the chief officer of police [2] for the area for which they are appointed, they have the powers, duties, and privileges of ordinary constables, and provision is made for pensions and allowances to them and dependents in the case of injury or death in the execution of their duty.

Isle of Man.—Chapter 72 [3] gave power to extend, by Order in Council, war legislation to the Isle of Man.

Prohibited Exports.—The power of prohibiting certain exports under the Customs and Inland Revenue Act, 1879,[4] was extended by Chapter 64 [5] so as to include "all other articles of every description." Proclamations specifying numerous articles had been issued on August 3, 5, 10, and 20, but under this amending Act a Proclamation [6] was made on the same day, August 28, withdrawing the prohibition in respect to the Colonies not possessing responsible government and India. By Order in Council [7] on September 1, jams, marmalades, and condensed milk were withdrawn from the prohibition. Further alterations and additions were made by Order in Council on September 8.[8] The exportation of sugar of all descriptions was prohibited on September 11,[9] and further alterations were made on September 25 [10] and October 6.[11]

Elementary School Teachers' Superannuation.—Proceeding with the Acts passed on August 28, note may be made of the Act [12] enabling certificated elementary school teachers to reckon service in connection with the present war as recorded service for the purpose

[1] Contained in the Special Constables Order, 1914 (*Manual*, p. 370).
[2] It has been decided that the chief police officer has power to dismiss.
[3] Isle of Man (War Legislation) Act. Cf. Ceylon Act No. 18 of 1914, *infra*, p. 51.
[4] 42 & 43 Vict. c. 21, s. 8.
[5] Customs (Exportation Prohibition) Act (*Manual*, p. 23).
[6] *Manual*, p. 170
[7] *Ibid.* p. 171.
[8] *Ibid.* p. 172.
[9] *Manual*, p. 174.
[10] *Ibid.* p. 175.
[11] *Ibid.* p. 520.
[12] Elementary School Teachers (War Service Superannuation) Act, c. 66 (*Manual*, p. 25).

of superannuation calculations. A similar Act [1] for Scotland was passed on the same day.

Police.—Another Act,[2] applicable only to Scotland, amended the Police Act so that the age of men joining the force for temporary service during the continuance of the war might be higher than twenty-five years, the limit prescribed by that Act. Under an order [3] of the Secretary for Scotland, dated September 3, the limitation was removed, but with a proviso that appointments should not be made, except in the case of police pensioners, of men over the age of forty-five years.

Naval Billeting.—The next [4] of the Acts passed on August 28 gave to the naval authorities the same power of issuing billeting requisitions as the army authorities possess under the Army Acts.

Food Supplies.—On August 31, with a view to maintaining a sufficient breeding stock, an Act [5] was passed enabling the Board of Agriculture to regulate and restrict the slaughter of animals used for human food.

Death Duties.—Another Act [6] of the same date extended to lineal ancestors the provision of the Finance Act [7] passed during the South African War for remitting the death duties in the case of persons killed in the war, and made distinctions between estates under and estates over £5,000. Estates under £5,000 are absolutely exempt. Upon estates over £5,000 no death duty is payable upon the first £5,000, but upon the remainder it is paid in accordance with a scale based upon the anticipation of life of the deceased. The duty is remitted altogether in the case of an estate passing for a second time owing to deaths caused by the war.

Sale of Intoxicating Liquors.—A third Act,[8] passed on August 31, enabled licensing justices, at the instance of the police authorities, to make orders limiting the hours during which intoxicating liquors may be sold.

[1] Education (Scotland) (War Service Superannuation) Act, 1914, c. 68 (*Manual* p. 26).
[2] Police (Scotland) (Limit of Age) Act, 1914, c. 69 (*Manual*, p. 27).
[3] *Manual*, p. 237.
[4] Naval Billeting, etc., Act, c. 70 (*Manual*, p. 28).
[5] Slaughter of Animals Act, c. 75 (*Manual*, p. 31).
[6] Death Duties (Killed in War) Act, c. 76 (*Manual*, p. 32).
[7] 63 & 64 Vict. c. 7.
[8] Intoxicating Liquor (Temporary Restriction) Act. c. 77 (*Manual*, p. 33).

Courts' Emergency Powers.—The last [1] of the Acts of that date was directed to the mitigation of hardships arising from the disturbance to business life and financial relations caused by the declaration of war. The Courts were empowered to defer the enforcement of judgments or orders requiring the payment of money, and to exercise control over the levy of a distress, and over the enforcement of the forfeiture of a deposit, or the lapse of any policy of insurance not exceeding £25 upon which the premiums were payable at not longer than monthly instalments. The Courts were given absolute discretion to defer the operation of any such remedies if the person liable to make the payment was unable to do so immediately "by reason of circumstances attributable, directly or indirectly, to the present war." Bankruptcy proceedings might also be stayed for the same reason. Proceedings for the recovery of possession of small tenements were included in the Act, but pawnbroking transactions were excepted, and also any proceedings for the recovery of money from the subject of a Sovereign or State at war with this country. By an Order in Council [2] of September 17, extended to Scotland on November 28,[3] fines and sums due under a recognisance or affiliation order were also excepted from the operation of the Act. A small amendment [4] as to the application of the Act to Ireland was passed on November 27.

Defence of the Realm.—On September 1 a second set of regulations [5] were made under the Defence of the Realm Acts in extension of the previous regulations.[6] They gave power to police officers and others to stop any vehicle travelling along a public highway and to search it if there was any reason to suspect that it was being used in any way prejudicial to the safety of the realm. They prohibited the possession of carrier pigeons without a permit from the Home Secretary.[7] They empowered the competent naval or military authority, if he had reasonable grounds for suspecting that the actions of any person were prejudicial to the public safety, to make an order requiring him to leave any specified area in the neighbourhood of a defended harbour or proclaimed area, and to

[1] Courts (Emergency Powers) Act, c. 78 (*Manual*, p. 35).
[2] *Manual*, p. 114. [3] *Manual*, Suppl. 2, p. 75.
[4] Courts (Emergency Powers) (Ireland) Act, c. 19 (*Manual*, Suppl. 2, p. 32).
[5] *Manual*, p. 151. [6] See *supra*, p. 18.
[7] This prohibition was first applied to certain specified areas (*Manual*, p. 156), but afterwards extended to the whole of the United Kingdom.

reside elsewhere, after reporting his proposed residence to the authorities.

Courts' Emergency Powers.—On September 8 rules [1] made by the Lord Chancellor under the Courts (Emergency Powers) Act [2] were issued. Applications under this Act might be made to the High Court as well as the inferior Courts; but, in the absence of special circumstances, were to be made to a County Court or Court of summary jurisdiction. The applicant might be required to bear any increased costs caused by disregard of this rule. A new set of rules applicable to the County Courts were issued on November 20 [3] with a number of additions and amendments, but following the original rules in their main provisions.

Trading with the Enemy.—On September 9 a second trading with the enemy Proclamation [4] was made revoking the earlier Proclamation [5] and restating and extending the prohibitions contained in it. The principal additional warnings were:

Not to pay any sum of money to or for the benefit of an enemy;

Not to compromise or give security for the payment of any debt or other sum of money with or for the benefit of an enemy;

Not to act on behalf of an enemy in drawing, accepting, paying, presenting for acceptance or payment, negotiating, or otherwise dealing with any negotiable instrument:

Not to accept, pay, or otherwise deal with any negotiable instrument which is held by or on behalf of an enemy, provided that this prohibition shall not be deemed to be infringed by any person who has no reasonable ground for believing that the instrument is held by or on behalf of an enemy;

Not to enter into any new transaction, or complete any transaction already entered into with an enemy on any stocks, shares, or other securities;

and finally:

Not to enter into any transactions with an enemy if and when they are prohibited by an Order in Council made and published on the recommendation of a Secretary of

[1] *Manual*, p. 115.
[2] See *supra*, p. 22.
[3] *Manual*, Suppl. 2, p. 63.
[4] *Ibid.* p. 378.
[5] See *supra*, p. 13.

State,[1] even though they would otherwise be permitted by law, or by this or any other Proclamation.

Sugar.—A Proclamation [2] of September 30 specially prohibited the importation of sugar from an enemy country. The prohibition by subsequent proclamation of October 26 [3] was applied to importation from any foreign country subject to certain savings.

Defence of the Realm.—On September 17 further regulations [4] under the Defence of the Realm Acts gave the Secretary of State power to take steps for causing lights to be extinguished or obscured in any specified area, and prohibited the importation of military arms or ammunition without a permit.

Prize Courts.—Before Parliament rose on September 18 several Acts received the Royal Assent. One of these [5] made provision for the exercise of prize jurisdiction by the Courts in Egypt, Zanzibar, and Cyprus.[6]

National Insurance.—An Act to amend the National Insurance was another. By s. 46 of the National Insurance Act [7] provision had been made for treating members of the Territorial Force, upon embodiment, as if they were in the sole employment of the Crown. A small amending Act [8] passed on September 18 applied this provision to men enlisted in the New Army. If they were insured before, they could continue to be insured, and if not insured before enlistment, they need not become insured unless they wished to do so. The Act also provided that officers taking commissions in the New Army might, if already in insurance, continue under the Act.

Bills of Exchange.—The chief object of the Bills of Exchange Act [9] was to provide for delay, due either directly or indirectly to the present war, in the presentment of bills of exchange for payment in places outside the British Islands. It authorised proof of a lost bill of exchange to be given by a certified copy or otherwise.

[1] Or, in a dominion or colony, of the Governor-General or Governor. Order in Council, Oct. 8 (*Manual*, p. 530).

[2] *Manual*, p. 384.

[3] *Ibid.* Suppl. No. 2, p. 155.

[4] *Ibid.* p. 154.

[5] By the Prize Courts (Egypt, Zanzibar, and Cyprus) Act, c. 79 (*Manual*, p. 37).

[6] The Order in Council applying the Act was made on September 30 (*Manual*, p. 253).

[7] 1 & 2 Geo. V. c. 55.

[8] National Insurance (Navy and Army) Act, c. 81 (*Manual*, p. 39).

[9] Chapter 82 (*Manual*, p. 40).

Army Pensions.—The Army Pensions Act [1] of the same date authorised the Army Council to pay military pensions in advance and at shorter intervals.

Payment of Rates.—Chapter 85,[2] passed on the same date, extended the time for payment of rates due to local authorities.

Trading with the Enemy.—Another Act [3] of the same date regulated the procedure for recovering penalties in trading with the enemy. It gave power to inspect books and documents and order the search of premises. It gave the Board of Trade power to satisfy themselves as to the constitution of firms or companies containing alien enemies, and to appoint a receiver in cases where public interest required the carrying on of the business.

Suspensory Legislation.—Upon the declaration of war it had been generally agreed to suspend, during the war, action or measures involving political controversy. The Suspensory Act,[4] passed on September 15, suspended the operation of the Home Rule Act and the Welsh Church Disestablishment Act to a date to be fixed by Order in Council, and to be not later than the end of the war.

The last of the Acts [5] passed on September 18 applied to the Navy the provisions of the Army Act in respect to the pledging of certificates, uniforms, or other property.

On September 19 Parliament was prorogued, and a new session began on November 11.

Moratorium.—Meanwhile, a Proclamation of September 30 [6] made a further limited and final extension of the moratorium to November 4. There were exceptions for rent, and any payment "due and payable to or by a retail trader in respect of his business."

During October no Act was passed, as Parliament was not sitting, and only a comparatively small number of Orders in Council, Proclamations, etc., were promulgated. Some of them [7] have already received mention incidentally since they amended or extended earlier measures.

[1] Chapter 83 (*Manual*, p. 40).
[2] Rates (Proceedings for Recovery) Act (*Manual*, p. 42).
[3] Trading with the Enemy Act, c. 87 (*Manual*, p. 42).
[4] Suspensory Act, 1914, c. 88 (*Manual*, p. 46).
[5] Navy (Pledging of Certificates, etc.) Act (*Manual*, p. 46).
[6] *Manual*, p. 246.
[7] See, for example, *supra*, pp. 13, 20, 24.

Defence of the Realm.—Among the remainder was an Order in Council of October 14 [1] extending the Defence of the Realm Regulations. It forbade the possession of celluloid or of cinematograph films beyond the "prescribed" amount. It gave powers for requiring persons landing in or embarking from the United Kingdom to make declarations as to, and hand over any letters or written messages carried by them. It prohibited the unauthorised sale or possession of any apparatus for wireless telegraphy. It gave powers for preventing the embarkation of persons and the transmission of messages in suspicious circumstances. All these powers were for preventing communication with, or transmission of information to, the enemy. It also placed restrictions on the storage of petroleum or other inflammable liquid.

Prohibited Exports.—An Order in Council of October 19 [2] made further alterations in the list of prohibited exports, but this Order, with all previous Orders on the same subject, was revoked by the comprehensive Order in Council of November 10.[3]

Pensions and Allowances.—Before the war men of the Royal Navy or Royal Marines who re-entered within five years of leaving the service had been allowed [4] to reckon the earlier period in the calculation of their pensions. An Order in Council of October 26 [5] removed the five years limit. On October 29 another Order in Council [6] increased the allowances for the wives and children of seamen, marines, and reservists.

Lighting Order.—On October 31 the Secretary of State issued a lighting order [7] under the Defence of the Realm Regulations.[8] Lights in the streets were to be extinguished "so as to break up all conspicuous groups or rows." Lights not so extinguished were to be shaded. Outside illuminations, as advertisements or otherwise, were to be extinguished. From 6 p.m. inside lighting was to be reduced. The lighting of railways was also to be reduced. Lights along the water-front were to be masked so as to prevent reflection. Lights

[1] *Manual*, Suppl. 2, p. 99.
[2] *Ibid.* Suppl. 2, p. 127.
[3] *Ibid.* Suppl. 2, p. 129. See *infra*, p. 27.
[4] By regulations under the Naval and Marine Pay and Pensions Act, 1865, s. 3.
[5] *Manual*, Suppl. 2, p. 152.
[6] *Ibid.* Suppl. 2, p. 153.
[7] Revoked and re-enacted in substantially the same terms (*Manual*, Suppl. 3, p. 341).
[8] See *supra*, p. 18.

of tram-cars and omnibuses were to be reduced and were to be obscured while crossing bridges. Powerful lamps on motors, and also flares, were prohibited. The Admiralty and Commissioner of Police were empowered to issue further directions in case of sudden emergency.

War with Turkey.—On November 5 the Foreign Office notified [1] a state of war with Turkey, and, by Proclamation of the same date,[2] the Proclamations and Orders in Council due to the state of war with Germany and Austria-Hungary were applied to Turkey, with the exception of the Order in Council of August 4,[3] relating to the status of enemy merchant vessels. This Order was not applied because the Hague Convention had not been ratified by the Sultan of Turkey. By Order in Council [4] of the same date the island of Cyprus was annexed to the British dominions.

Prohibited Exports.—On November 10 the various Proclamations and Orders of August 3, 5, 10, 20, and 28, September 1, 8, 11, and 25, and October 6 and 19 relating to prohibited exports were consolidated in one comprehensive Order,[5] which grouped the exports according to the destination of the goods (i) to all destinations; (ii) to all foreign ports in Europe and on the Mediterranean and Black Seas, other than those of France, Russia (except Baltic ports), Belgium, Spain, and Portugal; (iii) to all destinations abroad, other than His Majesty's Dominions, Colonies not possessing responsible Government, British India, territories under His Majesty's protection, Cyprus, the Channel Islands, and Egypt; and (iv) to all destinations other than the Channel Islands, Malta, Gibraltar, Falkland Islands, St. Helena, East Africa Protectorate and British West African Colonies and protectorates. An amending Order of November 20 [6] added raw rubber to the first group. Further additions were made by Orders of December 5 [7] (which added tea to the second group), and of December 23.[8] Among the eighteen Acts which received the Royal Assent on November 27 was the

[1] *Manual*, Suppl. 2, p. 1.
[2] *Ibid.* Suppl. 2, p. 188.
[3] See *supra*, p. 8.
[4] *Manual*, Suppl. 2, p. 76. A consequential Cyprus Courts of Justice Amendment Order was made on December 23 (*Manual*, Suppl. 3, p. 328).
[5] *Manual*, Suppl. 2, p. 129.
[6] *Ibid.* Suppl. 2, p. 136.
[7] *Ibid.* Suppl. 2, p. 137.
[8] *Ibid.* Suppl. 3, 378.

Customs (Exportation Restriction) Act,[1] which extended to articles of all descriptions the limited powers of prohibiting exportation given by an Act passed during the South African War.[2]

Members of Parliament.—Several members of Parliament had, by accepting commissions in the royal forces, vacated their seats. C. 3[3] of the second session gave relief in these cases, but was not to apply to any future Parliament.

Land Drainage.—A Land Drainage Act,[4] also included in the same batch, possibly with a view to providing employment for those thrown out of work by the war, gave the Board of Agriculture temporary powers for setting up bodies to construct land drainage works.

Leave for Active Service.—Among the others was a small amending Act for Scotland[5] which permitted salaried sheriffs-substitute to obtain leave of absence for active service. Another Act of a similar character[6] enabled law agents in Scotland to reckon one half of any period of service in connection with the present war as service under an indenture of apprenticeship.[7]

National Finance.—The Finance Act,[8] which became law on November 27, imposed taxes for the first War Budget. It increased the duties on beer and tea, and doubled the income tax, but it gave relief to licensed vendors of intoxicating liquors in respect of war restrictions on hours of sale,[9] and relief to income tax payers in respect of war reductions of income. It suspended indefinitely the contribution under the Revenue Act, 1911,[10] from land value duties to local authorities. The Government War Obligations Act[11] of the same date charged on the Consolidated Fund the war obligations incurred by the Government. The nature and scope of those obligations were set forth in a schedule as follows:

[1] *Manual*, Suppl. 2, p. 3.
[2] 63 & 64 Vict. c. 44.
[3] House of Commons (Commissions in His Majesty's Forces) (*Manual*, Suppl. 2, p. 3).
[4] Land Drainage Act (*Manual*, Suppl. 2, p. 4).
[5] Sheriff Courts (Scotland) Amendment Act, c. 5 (*Manual*, Suppl. 2, p. 6), amending 7 Ed. VII. c. 51, s. 16.
[6] Law Agents' Apprenticeship (War Service) (Scotland) Act, c. 20 (*Manual*, Suppl. 2, p. 33.
[7] 36 & 37 Vict. c. 63.
[8] C. 7 (*Manual*, Suppl. 2, p 7).
[9] See *supra*, p. 21.
[10] 1 Geo. V. c. 2, s. 16.
[11] *Manual*, Suppl. 2, p. 17.

1. Guarantees given to the Bank of England in connection with—
   (*a*) The discount of bills of exchange.
   (*b*) Advances to acceptors of bills of exchange.
   (*c*) Advances in connection with loans made to members of the Stock Exchange.

2. Guarantees given in connection with bills of exchange drawn by traders having debts due from abroad which are not immediately recoverable, and in connection with advances to traders to enable them to meet liabilities under contracts entered into before the outbreak of war.

3. Payments on contracts of insurance or re-insurance against war risks of ships or cargo or for the relief of dependents of persons on insured ships so far as provision is not made for those payments by the application of premiums or otherwise.

4. Any loan raised by any of the Powers allied in the present war, or by the Government of Egypt, or by the Government of any of His Majesty's Dominions or any British Possession or Protectorate.

5. The maintenance or assistance, in connection with the present war, of food supply, trade, industry, business, or communications in the United Kingdom or in any other country, or the relief of distress in the United Kingdom or in any other country.

Defence of the Realm.—An Act of the same date [1] consolidated with amendments the previous Defence of the Realm Acts,[2] and consolidated regulations [3] were issued on the following day. The additional powers enabled the competent naval or military authority "to take possession of any arms, ammunition, explosive substances, equipment, or warlike stores (including lines, cables, and other apparatus intended to be laid or used for telegraphic or telephonic purposes)." They empowered the Admiralty or Army Council to requisition the output or to take possession of any factories manufacturing munitions. Additional lighting regulations required vehicles to carry "prescribed" lights.

The regulations authorised the competent naval or military authority to make lists of all goods, animals, and other commodities of any nature or description, and to require any authority or person controlling any harbour, dock, wharf, waterworks, gasworks, electric

[1] Defence of the Realm Consolidation Act, c. 8 (*Manual*, Suppl. 2, p. 14).
[2] 4 & 5 Geo. V. c. 29; 4 & 5 Geo. V. c. 63. See *supra*, p. 16.
[3] *Manual*, Suppl. 2, p. 104.

light, or power station, or other structure to prepare a scheme for its destruction or to render it useless.

They imposed further restrictions on means of signalling, on access to defence works, and on the sale of firearms. They also required compliance with navigation regulations in harbours, prohibited the entry of vessels into dangerous areas and enforced requirements as to pilotage.

The regulations against spreading false news or alarming reports were strengthened. Under regulation 27:

> No person shall by word of mouth or in writing or in any newspaper, periodical, book, circular, or other printed publication, spread false reports or make false statements or reports, or statements likely to cause disaffection to His Majesty or to interfere with the success of His Majesty's forces by land or sea or to prejudice His Majesty's relations with foreign Powers, or spread reports or make statements likely to prejudice the recruiting, training, discipline, or administration of any of His Majesty's forces, and if any person contravenes this provision he shall be guilty of an offence against these regulations.

The powers of search, inspection, and seizure were also strengthened. Under Regulation 51[1]:

> The competent naval or military authority, or any person duly authorised by him may, if he has reason to suspect that any house, building, land, vehicle, vessel, aircraft, or other premises or any things therein are being or have been constructed, used, or kept for any purpose or in any way prejudicial to the public safety or the defence of the Realm, or that an offence against these regulations is being or has been committed thereon or therein, enter, if need be by force, the house, building, land, vehicle, vessel, aircraft, or premises at any time of the day or night, and examine, search, or inspect the same or any part thereof, and may seize anything found therein which he has reason to suspect is being used or intended to be used for any such purpose as aforesaid, or is being kept or used in contravention of these regulations (including, where a report or statement in contravention of Regulation 27 has appeared in any newspaper or other printed publication, any type or other plant used for the printing or production of the newspaper or other publication), and the competent naval or military authority may order anything so seized to be destroyed or otherwise disposed of.

[1] The proceedings against the *Globe* newspaper illustrate the operation of these provisions. See *Times*, November 8, 1915.

A Regulation (50) couched in general terms was intended to stop loopholes:

"If any person does any act of such a nature as to be calculated to be prejudicial to the public safety or the defence of the Realm and not specifically provided for in the foregoing regulations, with the intention or for the purpose of assisting the enemy, he shall be deemed to be guilty of an offence against these regulations."

An offence against the regulations might be tried either by a court-martial or by a Court of summary jurisdiction, but, if declared to be a summary offence, must be tried before a Court of summary jurisdiction (Regulation 56).

Criminal Procedure.—Another Act [1] postponed the operation of certain provisions of the Criminal Justice Administration Act which had modified the procedure in Courts of summary jurisdiction.

Absence on Active Service.—Another Act [2] extended to persons serving in the forces or employed in connection with naval or military operations the relief granted by an Act [3] passed during the South African War against disqualification by absence for membership of county and other councils.

Trading with the Enemy.—An Act [4] to amend the Trading with the Enemy Act [5] appointed a Custodian of enemy property. The Public Trustee was to be the Custodian for England and Wales. Dividends, interest, or share of profits payable to or for the benefit of an enemy are to be paid to the Custodian. Trustees holding property for an enemy and companies with enemy shareholders are required to supply the Custodian with particulars. The Court, upon application of a creditor, may vest enemy property in the Custodian. The Act invalidated the assignment of debts or any other security or obligation unless proved to have been made by leave of the Board of Trade or before the commencement of the war.

Trusts.—To facilitate the execution of trusts, another Act [6]

[1] Criminal Justice Administration (Postponement) Act, 1914, c. 9 (*Manual*, Suppl. 2, p. 16).
[2] Local Authorities (Disqualification Relief) Act, c. 10 (*Manual*, p. 17).
[3] 63 & 64 Vict. c. 36.
[4] Trading with the Enemy Amendment Act (*Manual*, Suppl. 2, p. 19).
[5] 4 & 5 Geo. V. c. 87. See *supra*, p. 25.
[6] Execution of Trusts (War Facilities) Act (*Manual*, Suppl. 2, p. 27).

empowered any person engaged on war service to delegate his authority by power of attorney "notwithstanding any rule of law or equity to the contrary."

Irish Workhouses.—An Act [1] for Ireland facilitated the use of superfluous Irish workhouses for accommodation of troops.

National Insurance.—An amendment [2] of the National Health Insurance Act, 1911, excepted men of the royal forces discharged on account of disease, disablement, or bodily or mental unfitness from the requirements as to proof of state of health, and gave them benefits under the Act from the date of their discharge.

Royal Marines.—Another Act [3] gave power to extend the terms of service of Royal Marines wherever serving. Before that the power only applied to foreign service.

Wills.—The Navy and Marines (Wills) Act [4] gave the Admiralty power to dispense with the requirements of the Navy and Marines (Wills) Acts [5] in the case of seamen and marines dying during or in consequence of the war.

On December 17 an Order in Council [6] fixed the rates of pay of the new corps known as the Royal Naval Division, which had been organised from active and reserve officers and men of the Navy, and in which certain officers and men of the Army, as well as volunteers, entered by direct recruitment, are also employed.

The foregoing summary terminates abruptly with the end of the calendar year; but the emergency legislation of which it describes part was continued throughout the year 1915. An account of it must be reserved for the next year's "Review of Legislation."

2. ISLE OF MAN.

Acts passed—5.

The Acts of the year were only small amendments of no general interest. Arrangements [7] were made for applying the war emergency legislation of the United Kingdom to the island.

[1] Poor Relief (Ireland) Act, c. 14 (*Manual*, Suppl. 2, p. 28).

[2] National Insurance (Navy and Army) Act. 1914 (Session 2), c. 15. *Manual*, Suppl. 2, p. 29.

[3] Royal Marines Act, 1914, c. 16 (*Manual*, Suppl. 2, p. 20).

[4] *Manual*, Suppl. 2, p. 31.

[5] 28 & 29 Vict. c. 72, and 60 & 61 Vict. c. 15.

[6] *Manual*, Suppl. 3, p. 489 .

[7] See *supra*, p. 20.

3. JERSEY.

[*Contributed by* E. T. NICOLLE, ESQ.]

Registration of Births, Marriages, and Deaths.—The law on this subject, which dates from 1842, has been amended, and most of the provisions contained in the Births and Deaths Registration Act 1874 (37 & 38 Vict. c. 88) have been adopted.

Highways.—A new law on roads and their maintenance was adopted, whereby it is provided that the States of Jersey will contribute each year out of the island's general revenues to the parochial funds towards the maintenance of the main roads of the island such amounts as will be recommended by a special committee of the States.

By this law also motor-cars, motor-cycles, and bicycles are taxed for the first time.

War Emergency Legislation.—War legislation has been similar to that passed in the United Kingdom; indeed, mostly by Royal Proclamations, transmitted by the Privy Council for registration.

One of these, however, calls for special mention, viz. the Proclamation dated August 4, 1914, recalling to the Active Service the Reserves of the Royal Jersey Militia.

Obligatory military service has existed for centuries in Jersey for all men from sixteen to forty-five years of age. It consists of an annual training of ten days in camp, plus eight days for target practice, for a period of ten years.

At the outbreak of war the Active Service was immediately mobilised and the Reserves were on the same day called to the colours by an Order in Council, transmitting the above Proclamation, which by law has then to be notified to every reservist at his residence.

The Jersey Militia thus undertook the complete defence of the island, and liberated the garrison of Regulars stationed there.

4. GUERNSEY.

The licensing of public halls and the storage of inflammable oils were the subjects of two Orders in Council. The law relating to criminal assaults upon women and girls is amended in another

of August 1 so as to bring it into conformity with the Criminal Law Amendment Acts of the United Kingdom.

Proclamation of Laws.—The old custom of proclaiming the Ordonnances of the Royal Court in the market-place on Saturdays is abolished in favour of posting them there, by Ordonnance of January 19.

Legal Profession.—By an Ordonnance of March 7 the Corps des Écrivains will be limited to ten members, and when certain gentlemen have been admitted no more will be permitted, so that it will eventually cease to exist. The work of an Écrivain is somewhat similar to that of a solicitor in preparing certain legal documents.

Emergency Legislation.—A series of Ordonnances dealing with some of the subjects which required attention in the United Kingdom were passed by the Royal Court. On August 4 the Guernsey Banking Company and the Guernsey Commercial Banking Company were authorised to issue bank-notes. The exportation of cattle and fish except to the United Kingdom was forbidden on August 8. Aliens were required by an Ordonnance of the same date to register before August 16. Proclamations forbidding the exportation of arms and munitions were confirmed by Ordonnance of the Royal Court on August 12, supplemented by another on August 20. The exportation of horses and other beasts of burden was prohibited on August 18, but the prohibition was withdrawn on September 5. Food prices could be fixed under an Ordonnance of August 28. The law in respect to the sale of intoxicating liquor was strengthened on October 5. The tax on tobacco for use of the soldiers was remitted for the duration of the war by Ordonnance of November 3. Arrangements for recruiting the Militia were made on November 7 so that if the numbers were not made up by voluntary enlistment the balance might be obtained by a system of drawing lots.

II. BRITISH INDIA.

[*Contributed by* SIR COURTENAY ILBERT, G.C.B.]

1. ACTS OF GOVERNOR-GENERAL IN COUNCIL.

Acts passed—17.

The Governor-General's Legislative Council, like the Parliament at Westminster, agreed to postpone controversial legislation during the war.[1] But ten of the seventeen Acts of 1914 had been passed before the war began, and the war necessitated some special legislation, either by Acts or by temporary Ordinances.

Civil Procedure.—The Code of Civil Procedure (Amendment) Act (No. 1) amends the Code of 1908 by extending the power of the High Courts at Calcutta, Madras, and Bombay to make rules for Presidency Small Cause Courts, and by saving the power of Local Governments for making rules as to the sale of land in execution of decrees.

Destructive Insects.—The provisions of the Destructive Insects and Pests Act (No. 2) are based partly on the corresponding English Acts of 1877 and 1907,[2] and partly on the Indian Livestock Importation Act of 1898. The Act empowers the Government to regulate and, if necessary, prohibit the importation of specified plants and other articles which may bring with them the risk of infection by any insect, fungus, or other pest injurious to crops.

Copyright.—The Indian Copyright Act (No. 3) made such modifications in the Imperial Copyright Act of 1911 as appeared to be desirable for adapting its provisions to the circumstances of India. The Imperial Act of 1911 was brought into force in India by proclamation in the *Gazette of India* on October 30, 1912. Under s. 27 of that Act there is a limited power for the legislatures of British possessions to modify or add to the provisions of the Act in its application to the possession, and it is under this power that the Indian Act of 1914 was passed. The portions of the Imperial Act applicable to British India are scheduled to the Indian Act. The Act to which these provisions are scheduled makes some formal

[1] See the Viceroy's speech in Council on January 12, 1915.

[2] 40 & 41 Vict. c. 68, and 7 Edw. VIII. c. 4.

adaptations of them to Indian law and precedure, and some material modifications of them in their application to translations and musical compositions. In the case of works first published in British India the sole right to produce, reproduce, perform or publish a translation is, subject to an important *proviso*, to subsist only for ten years from the first publication of the work (s. 4). The provisions of s. 19 of the Imperial Act as to mechanical instruments for producing musical sounds were found unsuitable to Indian conditions. "The majority of Indian melodies," it was explained in Council, "have not been published, *i.e.* written in staff notation, except through the medium of the phonograph. It is impossible in many cases to identify the original composer or author, and the melodies are subject to great variety of notation and tune. To meet these conditions s. 5 of the Indian Act follows the English Musical Copyright Act of 1902 by defining 'musical work' as meaning any combination of melody and harmony, or either of them, printed, reduced to writing, or otherwise graphically produced or reproduced."

Decentralisation.—The recent Committee on Decentralisation expressed the view, which was generally accepted, that many powers and functions then reserved by Indian Acts to the higher authorities might conveniently be delegated to lower authorities, and recommended that power should be taken to effect decentralisation of this kind by means of a general delegation Act which would enable delegations to be made from time to time by notification. A Bill on these lines was introduced in 1911, but in deference to objections that it would confer too wide a power for enabling the executive to legislate by notification, the Bill was withdrawn in 1912. The Bill, which has now become law as the Decentralisation Act 1914 (No. 4), proceeds on the alternative plan of scheduling a long list of particular enactments with a column of amendments under which powers may be exercised by an inferior authority, or by which the obligation to obtain the sanction of a superior authority for the exercise of the power is removed. Measures on similar lines have been passed, or are in course of being passed, by the local legislatures.

Negotiable Instruments.—The Negotiable Instruments (Amendment) Act (No. 5) amends the Indian Act of 1881 by declaring the legality of what are known as endorsements "in the alternative," that is to say, endorsements on a negotiable instrument made in such

a way as to authorise payments to two or more payees jointly, or in the alternative to one or some of several payees. S. 2 of the amending Act does this by applying to Indian negotiable instruments the powers of s. 17 (2) of the English Bills of Exchange Act 1882. S. 3 of the amending Act makes it clear that if a negotiable instrument is not originally made payable in the alternative it can be made so payable by endorsement. This section is based on s. 34 (3) of the English Act.

Small Cause Courts.—The Provincial Small Cause Courts (Amendment) Act (No. 6) excludes certain classes of cases from the jurisdiction of provincial Small Cause Courts.

Telegraphs.—The Indian Telegraph (Amendment) Act (No. 7) amends the Indian Telegraph Act 1884, and its main object is to meet the rapid extension of radio-telegraphy by giving more adequate control over the wireless installations. The Act applies to "all native Indian subjects of His Majesty in any place without and beyond British India" and, in the debates on the Bill, objection was taken to the use of the word "native." It was, however, pointed out that the use of the word was made necessary by the language of the Acts conferring limited powers on the Indian legislature to legislate for persons outside British India. The provision conferring the power exercised by the Act of 1914 is now reproduced by s. 65 (c) of the Government of India Act 1915,[1] the new Consolidation Act.

The Indian Post Office and Telegraphs (Amendment) Act 1914 (No. 14) makes some formal amendments consequential on the amalgamation of the offices of Director-General of Telegraphs and Director-General of the Post Office of India.

Motor Vehicles.—The Indian Motor Vehicles Act (No. 8) is a general Act applying to the whole of British India, and takes the place of the seven previous Acts which, with one exception, were passed by the provincial legislatures, and were local in their operation. The desirability of having the general law uniform throughout British India was obvious, but adaptation to local conditions was provided for by giving the Local Governments large powers of making rules. The new general Act is based on a comparison of the provisions of the several previous Acts.

Local Loans.—The Local Authorities Loans Act (No. 9) con-

[1] 5 & 6 Geo. V. c. 61.

solidates and supersedes the provisions of eight previous Acts, but makes no important changes in the law.

Statute Law Revision.—The two Repealing and Amending Acts (Nos. 10 & 17) belong to the same class as the English Statute Law Revision Acts. Each Act has appended to it two schedules. The first schedule makes amendments of a formal nature in several Acts. The second schedule repeals expressly several provisions which had been virtually repealed or had become unnecessary.

Companies.—The Indian Companies (Amendment) Act (No. 11) enacts, and inserts as additional sections in the Indian Companies Act, 1913, certain provisions relating to directors which it had been proposed to embody in that Act, but which, when it was under discussion, were left over for further consideration. These added sections—

(1) Require every new company, not being a private company, to have at least two directors, and regulate the mode of appointing directors. [A private company is a company which has less than fifty members, controls the transfer of its shares, and does not invite the public to subscribe to the shares or debentures];

(2) Require directors to disclose their interest in any contract or arrangement on behalf of the company;

(3) Prohibit voting by an interested director;

(4) Require disclosure to members of any contract for the appointment of a manager in which any director is interested; and

(5) Require filing and disclosure to directors of the terms of any contract by a manager or other agent of a company (not being a private company) if in the contract the company is an undisclosed principal.

The debates on the measure turned much on the position of the managing agents by which the business of most Indian Companies is conducted or controlled.

Customs.—The Sea Customs (Amendment) Act (No. 12) removes some small defects in s. 55 of the Sea Customs Act, 1878.

Army.—The Indian Army (Amendment) Act (No. 15) makes some small amendments in the provisions of s. 114 of the Indian Army Act, 1911, about the property of deceased persons and deserters.

Air-craft.—When Parliament passed the short Aerial Navigation

Act of 1911 [1] it contemplated only risks arising from the use of peaceful air-craft, and empowered the Secretary of State to make orders for the protection of the public against such risks. In 1913 it had to go further, and authorise the making of orders for the purposes of the safety and defence of the realm. The Indian Airship Act 1911 had a wider scope, and gave larger powers than the English Act of that year. But when the present war broke out it was found desirable, in view of the great and rapid development in the use of air-craft for military purposes, to extend the powers given by the Indian Act of 1911. This extension of powers is given by the Indian Aircraft (Amendment) Act (No. 16) which was passed in September 1914. Under this Act the Governor-General in Council may, by notification, prohibit or regulate the navigation of air-craft over, or the entry of air-craft by flight into, British India or any part thereof, including the territorial waters adjacent thereto. Similar powers are given to Local Governments. And penalties are imposed for non-compliance with signals required by notification. However, fortunately for India, that country has not yet suffered from the visitations of hostile air-craft.

2. MADRAS.

Acts passed—8.

Hindu Law Transfers and Bequests.—In the famous Tagore case [2] the Judicial Committee of the Privy Council decided that under Hindu law a transfer or bequest of property to an unborn person was invalid. Numerous attempts have been made, by legislation and otherwise, to get over or get round this decision, and to extend, in the case of persons subject to Hindu law, the powers of making family settlements of property. The Hindu Transfer and Bequests Act (No. 1)—a measure introduced into the Madras Legislative Council by a Hindu member of that Council—represents a successful attempt in this direction. It applies to all transfers *inter vivos* and wills made by persons governed by the Hindu law, who are domiciled within the limits of the Presidency of Madras. In the case of transfers or wills before the date of the Act its provisions apply to such of the dispositions thereby made as are intended

[1] 1 & 2 Geo. V. c. 4.

[2] *Juttendromohun Tagore and others* v. *Juttendromohun Tagore and another* (1872) L.R. Supplemental Indian Appeals, 47.

to come into operation after that date, subject to a saving for *bonâ fide* transferees for valuable consideration in whom the right to any property had vested before that date. There is an explanation that, for the purposes of the Act, Hindus governed by the Marumakkatayan or the Aliyasantama law are to be deemed to be persons governed by the Hindu law.[1]

The Act then negatives the decision in the Tagore case by declaring that a transfer *inter vivos*, or disposition by will of any property, shall not be invalid by reason only that the transferee or legatee is an unborn person at the date of the transfer or the death of the testator as the case may be (s. 3). But it limits the extended power by declaring, in accordance with the rule of English law, that " no transfer of property can operate to create an interest which is to take effect after the lifetime of one or more persons living at the date of the transfer, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the interest created is to belong " (s. 4), and that " no bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the lifetime of one or more persons living at the testator's decease, and the minority of some person who shall be in existence at the expiration of the period, and to whom, if he attains full age, the thing bequeathed is to belong " (s. 5).

Medical Practitioners.—The Madras Medical Registration Act (No. 4) establishes for the Presidency of Madras a Medical Council, whose registrar is to keep a register of medical practitioners. A person is not qualified to be placed on the register unless he (*a*) is for the time being registered under the British Medical Act [2] or (*b*) possesses one of the qualifications mentioned in the schedule to the Act, which specifies certain Indian degrees, diplomas, and certificates. The privileges of a registered practitioner appear in s. 3, under which—

(1) No certificate required by law to be given by a medical practitioner or officer is to be issued unless signed by a registered practitioner, and

(2) Except with the special sanction of the Governor in Council, no one, other than a registered practitioner, is

[1] These are the rules of the polyandrous Hindus in Malabar and Canara. See Mayne, *Hindu Law and Usage*.

[2] 21 & 22 Vict. c. 90.

competent to hold any appointment as physician, surgeon, or other medical officer in any hospital, asylum, infirmary, dispensary, or lying-in hospital not supported entirely by voluntary contributions, or as medical officer of health.

The Act should be compared with the similar Medical Act recently passed for the Presidency of Bombay [1] and with the Bengal Medical Act of 1914.[2]

Decentralisation.—The Madras Decentralisation Act (No. 8) gives effect to the recently declared policy of administrative decentralisation by means of a schedule containing amendments of a number of Madras Acts.

The other Madras Acts are of no general interest.

3. BOMBAY.

Acts passed—8.

Irrigation.—The Bombay Irrigation Amendment Act (No. 2) deals with what is perhaps the most difficult and important class of rights and duties incidental to the ownership and occupation of land. It adds to the Irrigation Act of 1879 (No. 7) a new part dealing with a class of irrigation works to be known as Second Class Irrigation Works. A notification may be issued containing proposals to constitute as a Second Class Irrigation Work any canal, channel, stream, river, pipe or reservoir, natural or artificial, or any part thereof, whether constructed, controlled, or maintained by Government or not, which is actually used or required for the purposes of irrigation. The notification will be followed by a proclamation specifying as nearly as possible the source of supply, situation, and limits of the work, and limiting a time within which claims to any right in the work may be presented. The work will be treated as a canal, within the meaning of certain provisions of the principal Act. A canal officer is to frame, with reference to the work, a record of rights containing such matters as the following:

(*a*) The nature of the work or of any subsidiary work;
(*b*) The lands irrigable therefrom;
(*c*) The custom or mode of irrigation; and
(*d*) The rights to water and the conditions on which they are enjoyed.

[1] vi. of 1912. See Journal, vol. xiv. p. 73. [2] See *infra*, p. 43.

There is power to commute rights inconsistent with the due management and maintenance of the work.

The obligation to perform petty repairs in connection with the work is imposed on the owners and occupiers of land irrigated therefrom. The nature of these petty works appears from the following list:

(1) The filling up of gullies, ruts, and holes, especially at the back of revetments, and all petty repairs of a like nature essential for the safety of bands, tanks, channel works, or other portions of the main work;

(2) The prevention of the growth on the work of prickly pear, young trees, and other vegetation endangering the safety or concealing the condition of the work;

(3) The preservation of bushes and grasses planted for the protection of the interior water-slopes of the work;

(4) The clearance of silt from sluices, supply, and distribution channels;

(5) The clearance of waste-weirs and waste-channels.

There is power to make rules for carrying out the purposes of the Act.

Land Revenue.—The Bombay Land Revenue Code Amendment Act (No. 7) gives power to grant suspensions or remissions to inferior holders of rent or land revenue as between themselves and superior holders.

Municipalities.—The Bombay District Municipal Amendment Act (No. 8) makes some important amendments in the Act of 1901 (No. 3).

The other Bombay Acts are merely of local interest.

4. BENGAL.

Acts passed—7.

Application of Laws.—The extension and adaptation of enactments made by the Bengal Laws Act (No. 1) are consequential on the alteration of legislative areas and authorities effected when Bengal was constituted on its present basis in 1912. Previous adaptations for the same purpose had been made by the Bengal, Bihar, and Orissa and Assam Laws Act, 1912.

Public Health.—The Bengal Municipal (Sanitary Officers) Act

(No. 2) amends the Bengal Municipal Act by providing for the appointment of sanitary officers in Bengal Municipalities.

Education and Young Ladies.—The Doveton Trust Act (No. 3) abolishes the Institution formerly known as the Parental Academic Institution and Doveton College for Young Ladies, and provides for a better application of its funds. This institution had existed in various forms and under various names since 1823, and its history, which is traced in the speech of the promoter of the measure, was described by him as a "melancholy record of incompetence and mismanagement."

Local Loans.—The Calcutta Municipal (Loans) Act (No. 4) amends the borrowing powers of the Calcutta Municipality.

Ports.—The Chittagong Port Act (No. 5) consolidates with amendments three previous Acts.

Medical Practitioners.—The Bengal Medical Act (No. 6) establishes a Bengal Council of Medical Registration, and sets up a register of medical practitioners. Its provisions should be compared with those of the Madras Act [1] and of the earlier Bombay Act. All these Acts are drawn with similar objects and on similar lines, but differ in details. The Bengal Act gave rise to considerable discussion and division of opinion in the Bengal Council.

Excise.—The Bengal Excise (Amendment) Act (No. 7) is another unification Act arising out of the absorption of Eastern Bengal in the existing Presidency of Bengal. Two Acts were previously in force, one for Bengal, the other for Eastern Bengal, and Bengal Act 5 of 1909 is now applied with some minor amendments to the whole Presidency.

5. BIHAR AND ORISSA.

Acts passed—4.

Rural Police.—The Chota Nagpur Rural Police Act (No. 1) regulates the system of rural police and road patrols in the Chota Nagpur Division, and replaces an Act of 1887 for the same purpose. It may be remembered that an interesting account of the early system of administration in this region was given by the late Sir William Hunter in his first and best book, *The Annals of Rural Bengal.*

[1] See *supra*, p. 40.

Water Supply.—The Jharia Water Supply Act (No. 3) sets up a Water Board and makes other provision for supplying water for domestic purposes to the important Jharia coalfields in Manbhum.

Public Demands.—The Bihar and Orissa Public Demands Recovery Act (No. 4) is now the law which regulates the procedure for recovering public demands, and takes the place of the two Bengal Acts by which that procedure was previously regulated.

6. UNITED PROVINCES.

Acts passed—3.

Local Rates.—The United Provinces Local Rates Act (No. 1) empowers the local Government to levy local rates in addition to land revenue, and apportions the liability for these rates between the persons liable for revenue and subordinate holders. The Act gives effect to some recent financial arrangements between the Government of India and the local Government.

Local Government.—The United Provinces Town Areas Act (No. 2) makes provision for the sanitation, lighting, and improvement of town areas which are not of sufficient importance to be dealt with as municipalities. The town fund is fed from certain taxes, fines, and other sources of revenue, and its application is under the control of the District Magistrate. But this magistrate is to be assisted by the advice of a "panchayat," who must be at least partially elected. Power to make orders for sanitary purposes is vested in the district magistrate, or, by delegation, in the town magistrate, who, however, is to take into consideration any representations made to him by the "panchayat."

Excise.—The United Provinces Excise (Amendment) Act 1914 (No. 3) amends some of the provisions of the Excise Act of 1914 about intoxicating drugs, including cocaine, ganja, bhang, and charas.

7. PUNJAB.

Acts passed—4.

Excise.—The Punjab Excise Act (No. 1), which is a measure of a very technical character, consolidates previous Acts with amendments arising out of the recommendations made by the Excise Committee of 1905–6. It increases the penalties for illicit distillation.

Fisheries.—The Punjab Fisheries Act (No. 2) supplements the powers under the Indian Fisheries Act, 1897, by empowering the local Government to make rules for regulating the right of fishery, and thereby to—

(*a*) Prohibit fishing except under licence, and regulate the grant of licences, the fees payable under them and the conditions to be inserted in them ;

(*b*) Prescribe regions in which the killing of fish of any prescribed species is to be prohibited ; and

(*c*) Prescribe a minimum size or weight below which fish of any prescribed species are not to be killed.

Rules are not to be made for private waters except with the consent of the owner and of all persons having any exclusive right of fishery therein.

Courts.—The Punjab Courts Act (No. 3) is an important measure of consolidation. It consolidates the previous Court Acts with amendments required by the recent scheme for assimilating the judicial system of the Punjab more closely to the judicial systems of other provinces. The Chief Court now consists of five or more judges, of whom one must be a barrister of five years' standing, and another a barrister or a pleader of the like standing or an advocate of the Chief Court. Under the Chief Court are twenty-two judges, called district and sessions judges, each of whom exercises civil (district) and criminal (sessions) jurisdiction. The Civil Courts are graded as the courts of (1) district judge, (2) additional judge, (3) subordinate judge, and (4) munsif. In the debates on the measure reference was made to the desire in the Punjab to raise the status of the Chief Court to that of a High Court. An amending Act of the same year (No. 4) alters the period of limitation for appeals.

8. BURMA.

Acts passed—3.

Offensive Weapons.—The Burma Village Amendment Act (No. 1) requires persons present at a *pwe*, or village meeting, to surrender on demand to the headman of the village tract any offensive weapon exempted from the provisions of the Indian Arms Act 1878.

Customs.—The Burma Outport Act (No. 2) provides for the levy of dues at outports, *i.e.* ports other than the Port of Rangoon.

Canals and Drainage Works.—The Burma Canal Amendment Act (No. 3) amends the provisions of the Burma Court Act 1908 with respect to village canals and village drainage works.

9. REGULATIONS UNDER 33 VICT. c. 3

(Now S. 71 of the Government of India Act, 1915).

Regulations made—3.

Noxious Weeds.—The Coorg Noxious Weeds Regulation (No. 3) enables the Chief Commissioner and officers appointed by him to make orders requiring landowners to eradicate and destroy noxious weeds on their land.

Repeals and Amendments.—The Ajmer Repealing and Amending Regulation (No. 2) is framed on the same lines as similar enactments passed by the Indian legislature, and has appended to it a schedule making in some respects amendments to Regulations in force in Ajmer-Merwara.

Alienation of Land.—The Ajmer Alienation of Land Regulation (No. 3) restricts the alienation of land on lines which are now familiar to students of Indian legislation. Land cannot be permanently alienated without the sanction of the Collector. A mortgage must be in some one of the forms prescribed by the Regulation or by an order of the Chief Commissioner, and the conditions which may lawfully be attached to a mortgage are regulated in terms too specific to be reproduced here. Execution sales of land cannot take place without the previous sanction of the Chief Commissioner. Legal practitioners must not appear on behalf of any party interested in any proceeding before a revenue officer under the Regulation. A Civil Court is not to have jurisdiction in any matter which the Local Government or a revenue officer is empowered by the Regulation to dispose of. No Civil Court is to take cognisance of the manner in which the local Government or any revenue officer exercises any power vested in it or in him by or under the Regulation. It would hardly be possible to carry further the exclusion of lawyers and ordinary courts of law from interference with matters relating to land.

10. ORDINANCES UNDER 24 & 25 VICT. c. 67, s. 1 (*Now s. 72 of the Government of India Act*, 1915).

Ordinances made—9.

No less than nine temporary Ordinances were made by the Governor-General under the powers conferred by s. 23 of the Indian Councils Act, 1861. All of them dealt with emergencies arising out of the war. Their operation has since been prolonged by an Act passed by the Governor-General in Legislative Council.[1]

Press.—The Indian Naval and Military News (Emergency) Ordinance (No. 1) prohibits the publication of naval and military news or information except when it is supplied by the Government or approved by the Government for publication. The prohibition covers any information with respect to armaments or dispositions of troops, ships, air-craft, or war material, or to the strategic or other plans or schemes of the naval or military authorities of any part of the British Empire, or to any works or measures undertaken for or connected with the defence or fortification of the British Empire or any part thereof. And the expression "British Empire" includes all territories under the suzerainty or protection of His Majesty. The penalties for breach of the prohibition may extend to a year's imprisonment, or a fine of 1,000 rupees, or both. Criminal proceedings under the Ordinance must be taken at the instance of the Government. Jurisdiction is given to presidency magistrates, district magistrates, and sub-divisional magistrates. Magistrates are empowered to issue search-warrants and to order confiscation of documents. No order made or purporting to be made in accordance with the provisions of the Ordinance directing or relating to the issue of a search-warrant or the confiscation of anything is to be called in question in any Court, and no civil or criminal proceeding is to be instituted against any magistrate or police officer for anything done or purporting to be done in good faith under the Ordinance.

Impressment of Vessels.—Under the Impressment of Vessels Ordinance (No. 2) the Governor-General in Council may by notification empower the Director or any gazetted officer of the Indian Marine Service to impress temporarily for the service of His Majesty vessels in any specified port. Compensation is to be paid to the

[1] Act 1 of 1915.

owner of the vessel, and is to be assessed in manner directed by the Ordinance. The jurisdiction of Courts is barred, as in the previous Ordinance.

Foreigners.—The Foreigners Ordinance (No. 3), s. 3, empowers the Governor-General in Council by order to—

(*a*) Prohibit or regulate and restrict in such manner as he thinks fit the entry of foreigners into British India and their departure therefrom; and

(*b*) Regulate or restrict in such manner as he thinks fit the liberty of foreigners residing or being in British India.

The order may, among other things, provide—

(*a*) That no foreigner shall enter into or depart from British India, save within such period or by such route or by such port or place as may be specified in the order;

(*b*) That foreigners shall be prohibited from entering or remaining in any specified area in British India, or shall only be permitted to enter or remain in British India or any specified area therein subject to such conditions and restrictions as the Governor-General in Council may impose; and

(*c*) That foreigners residing or being in British India shall remove themselves to and remain in any specified area, or, if such an order is necessary for the public safety or in the interests of the State, that such foreigners shall be arrested and interned or confined in such manner as the Governor-General in Council may think fit.

The penalties on a foreigner for contravening an order may extend to three years' imprisonment, or fine, or both.

The Governor-General in Council or any Local Government may by notification require every householder within a specified area to report the name and particulars as to any foreigner residing temporarily or permanently in his house, under penalties of imprisonment or fine or both.

The powers exercisable under the Ordinance are to be in addition and without prejudice to powers exercisable under the Foreigners Act 1864,[1] or under any other law for the time being in force in respect of foreigners who are subjects of a State at war with His Majesty.

[1] No. III. of 1864.

Orders made under s. 3 of the Ordinance are not to be called in question in any Court. Ordinances Nos. 7 and 8 make some amendments in Ordinance No. 3.

Indian Volunteers.—The Indian Volunteer Ordinance (No. 4) places the members of any corps or portion of a corps of volunteers called out for actual military service under s. 27 of the Indian Volunteers Act, 1869 (XX of 1869), under military law, the officers as officers, and the non-commissioned officers and men as soldiers, and the Army Act is to apply to them accordingly. But non-commissioned officers and men enrolled before the promulgation of the Ordinance were empowered to quit the corps within one month after that promulgation.

Ingress into India.—The Ingress into India Ordinance (No. 5) extends the Foreigners Ordinance to persons other than foreigners entering British India after the commencement of the Ordinance, subject to the following modifications:

(1) The power to prohibit entry is not to be exercised;

(2) No other power under the Ordinance is to be exercised unless the authority exercising it is satisfied that the exercise of it is desirable in order to protect the State from the prosecution of some purpose prejudicial to its safety, interests, or tranquillity;

(3) The maximum term of imprisonment for breach of the Ordinance is reduced.

Commercial Intercourse.—The Commercial Intercourse with Enemies Ordinance (No. 6) extends to the whole of British India and applies also to—

(*a*) All British and native Indian subjects of His Majesty within the territories of any Indian Prince or Chief in India; and

(*b*) All servants of His Majesty, whether British subjects or not, within the territories of any such Prince or Chief.

Under s. 3, during the continuance of a state of war between His Majesty and any State, it is not lawful to contribute to, or participate in, or assist in the floating of, any loan raised by or on behalf of the Government of the State, or to advance money to, or enter into any contract or dealings with, or otherwise to aid and abet or assist, the Government of the State. Any contravention of this

section is to be treated as an offence against s. 121 of the Indian Penal Code.

Under s. 3, during the continuance of a state of war between His Majesty and any such State, any contravention of the provisions of any proclamation or Order in Council of His Majesty relating to trade, commercial intercourse, or other dealings with any subject of that State, or any person residing, carrying on business, or being in the territories, colonies, or dependencies of that State is to be punishable with three years' imprisonment, or fine, or both. If any company, association, or body commits any offence under the Ordinance, every member or officer thereof who is knowingly a party to the act is to be deemed to have committed the offence. The certificate of a Secretary to the Government of India or of an officer of the Government authorised in that behalf is to be conclusive evidence of a state of war. There is a saving for licences duly granted. Proceedings for offences are not to be taken except at the instance of the Government, and there are restrictions on the jurisdiction of inferior Courts and magistrates.

Articles of Commerce.—Under the Articles of Commerce Ordinance (No. 9) the Governor-General in Council and Local Governments can require owners to make returns of articles of commerce belonging to them. Returns and information thus obtained are not to be published or disclosed except for prosecutions under the Ordinance. Omissions to make returns, false returns, obstruction of exercise, or powers made under the Ordinance, refusal to answer, and false answers to questions, may be punished with fine or imprisonment (six months') or both.

The Governor-General in Council and Local Governments may make declarations that articles of commerce are unreasonably withheld, and thereupon may, subject to grant of compensation, take possession of any supplies so withheld. In the absence of agreement, such compensation as may be considered reasonable is to be offered, but an appeal lies to the prescribed authority, which is to consist of at least three persons, one at least of whom must have commercial experience. Any jurisdiction of the Courts is barred as under other Ordinances.

III. EASTERN COLONIES.

1. CEYLON.

[*Contributed by* L. Maartensz, Esq., *Additional District Judge, Colombo.*]

Ordinances passed—34.

Revision of the Ordinances.—Ordinance No. 10 legalises the publication of a Revised Edition of the Ordinances from 1707 to 1913.

Elephants.—Ordinance No. 13 introduces an amendment of the Game Protection Ordinance, 1909, with the object of making the unlawful possession of a tusker or an elephant an offence. The Ordinance defines in what circumstances a person shall be deemed to be in unlawful possession of a Tusker or an Elephant.

Wireless Telegraph.—Ordinance No. 15 repeals the Wireless Telegraph Ordinance, 1903, and re-enacts the provisions with certain amendments as sections of the Ceylon Telegraph Ordinance, 1908. The main object of the Ordinance is to make proper provision for governing the use of wireless telegraph apparatus on merchant ships while in the territorial waters of the Colony.

Effect of War.—Ordinance No. 18 provides that all questions, whether arising before or after the passing of the Ordinance, which relate to the effect of the war upon legal rights and remedies shall be determined in accordance with the law by which such questions would for the time being be determined in England.

Trading with the Enemy.—Ordinance No. 20 is on the same lines as the Act of the United Kingdom.

Habitual Criminals.—Ordinance No. 32 is a re-enactment with certain modifications of "The Habitual Criminals and Licensed Convicts Ordinance, 1899." Two new elements are introduced into the Ordinance, namely (*a*) a new scheme for the recording and proving of previous convictions, and (*b*) a system of preventive detention.

The system of preventive detention follows the lines of the system recently introduced into the United Kingdom.

The Ordinance empowers (1) the Court by which an habitual criminal is convicted if such habitual criminal has, since attaining

the age of sixteen years, been at least three times previously convicted of a crime to pass a further sentence, ordering that, on determination of the sentence of imprisonment, he be detained for such period not exceeding five years, and not less than three years as the Court may determine.

(2) The Governor to commute the remainder of a sentence of rigorous imprisonment to a sentence of preventive detention, where the habitual criminal has been sentenced to rigorous imprisonment for a term of five years or upwards, and has served three years of his sentence of rigorous imprisonment.

Tea Cess.—Ordinance No. 21 amends "The Tea Cess Ordinance No. 2 of 1909," so as to permit of the Joint Committee of the Planters' Association and Ceylon Chamber of Commerce appointed under that Ordinance, appropriating out of the funds it administers two contributions of Rs. 30,000 each, one towards "The Prince of Wales's Fund," and the other towards providing a gift of tea to the Russian troops.

Town Guard.—The object of Ordinance No. 22 is to regularise the position of the Colombo Town Guards and to provide for the formation of similar Town Guards for other places in the Colony should occasion require.

Currency Paper.—All currency notes now embody certain secret characteristic features, which are known to the Treasurer, and the object of Ordinance No. 33 is to provide that a Certificate from the Treasurer that a Note is spurious on the ground that it does not contain its proper characteristic secret features, shall be conclusive evidence in a court of law. The Ordinance provides further that the Treasurer shall not be examined or cross-examined with respect to any such Certificate.

2. HONG-KONG.

[*Contributed by* C. G. ALABASTER, ESQ., *Editor of the "Laws of Hong-Kong."*]

Ordinances passed—33.

The Colony of Hong-Kong comprises not merely a port with a greater volume of shipping than that possessed by any other port in the East, but also a fortress and a naval base and dockyards. These considerations, while in no sense interfering with the normal

course of legislation, have, not unnaturally, resulted in a certain amount of legislation of an unusual type designed to meet the requirements of a gradually developing situation engendered by the war.

This legislation was effected, except with regard to the Alien Enemies (Winding up) Ordinance, mainly by amending ordinances which merely strengthened and increased powers already in the existing statute book of the Colony. With the exception mentioned, which will be dealt with later, exceptional local legislation was rendered less necessary than it would otherwise have been by the application to the Colony at the outbreak of war of certain Orders in Council, Proclamations, and Harbour regulations.

War Emergency Legislation.—On August 3 a *Government Gazette Extraordinary* announced that His Britannic Majesty's Government found themselves under the necessity of availing themselves of the power reserved under Article 8 of the International Telegraph Convention to suspend (or rather, owing to the modifications attached to the notification, to control) the transmission of telegrams to and from, and in transit through the Colony. Similar notifications were of course published throughout the Empire, so it is unnecessary to deal with the Hong-Kong announcement in detail, except to observe that it led to the establishment of a censorship.

On the same day another *Government Gazette Extraordinary* contained regulations placing the port under examination by the Naval Authorities, and giving detailed instructions for the control of public traffic on the waters, disobedience or disregard of which rendered an offender liable to be fired on without warning. On August 5 the *Gazette* contained a number of important notifications. By No. 4 the Governor, acting under section 189 of the Army Act, declared His Majesty's forces in the Colony to be subject to the said Act. By No. 5 the Governor, acting under s. 13 of the Volunteer Ordinance 1893, called out the Hong-Kong Volunteer Corps for actual military service. By No. 7, under the powers conferred by sub-clause 13 of Clause III of the Order in Council of October 26, 1896, a board was appointed for the purpose of determining the amount of any remuneration or compensation payable under the Order, and the prices at which any grain, article of food, coal, or other fuel taken under the Order in Council might be sold to the inhabitants. By No. 8 the Order in Council of Her Majesty the Queen at

Balmoral on October 26, 1896, was applied to the Colony. This Order in Council, which was not peculiar to Hong-Kong, need not be examined in detail; but, inasmuch as it made every person for the time being within the limits of the Colony subject to military law (while retaining the effectiveness of the civil courts) and gave the Governor many powers he had not possessed before, the necessity for special legislation was reduced to a minimum. Notification No. 9 in the same *Gazette* contained a list of a number of articles the export of which was prohibited. This action was taken under the Military Stores (Prohibition of Exportation) Ordinance, 1862.

The Ordinances.

Opium.—The Opium Ordinance (No. 4) repealed all former Ordinances dealing with this subject and consolidated them. Hitherto the exclusive privilege of preparing and selling prepared opium, of collecting and purchasing opium dross and of preparing and dealing in dross opium had been leased to an opium farmer. Under the new ordinance a Government department under the control of the Superintendent of Imports and Exports took over the farm. This taking over of the farm by the Government is a necessary stage in the gradual elimination of the opium trade of the Colony.

Cremation.—The Cremation Ordinance (No. 5) placed the establishment of crematoria on a legal basis and provided for their regulation.

Seditious Publications.—The Seditious Publications Ordinance (No. 6) gave to the Governor in Council power to declare any publication which might appear to him to contain any seditious matter to be forfeited. The Ordinance also contained provisions enabling the Superintendent of Imports and Exports and the Postmaster-General to detain packages containing seditious matter.

Obscene Publications.—A somewhat similar ordinance was the Obscene Publication Ordinance (No. 15), which authorised the seizure of obscene or indecent publications and other articles.

Dentistry.—The Dentistry Ordinance (No. 16) established a Dental Board and Dental Register. By this Ordinance unqualified persons were prohibited from using incorrect or misleading titles or statements of capacity, and dental practitioners were prohibited

from using any title which had not been properly conferred upon them.

Piracy.—The many piratical attacks on river and coasting steamers carrying the British flag rendered necessary the passing of the Piracy Prevention Ordinance (No. 23), under which no ship or launch may leave the Colony on a voyage to Amoy, Swatow, Macao, Kwong Chau Wan, Hoikow or Haiphong, or to any port or place on the Canton River or the West River or any river or estuary in the provinces of Kwong Tung and Kwong Sai or to any port or place in either of the said provinces, unless the owners, agents, charterers, or licencees have entered into a bond conditioned for the due observance of regulations under the Ordinance. The regulations under the Ordinance provide for screens and grilles separating the passengers from the executive officers of the ships, the carriage of arms, and of armed guards. This is necessary, as in most cases a number of the pirates leave port as ordinary passengers, and are met and taken off by the piratical junks only when the piracy and looting are completed.

Trading with the Enemy.—The Trading with the Enemy Ordinance (No. 25) provided penalties for the offence of trading with the enemy, which was defined as "taking any part in any act or transaction prohibited under any proclamation issued by His Majesty dealing with the subject of trading with the enemy or any act or transaction constituting the offence of trading with the enemy by common law or under any ordinance or under any statute applicable to the Colony."

Business of Alien Enemies.—On November 1 all Germans and Austrians of military age, and capable of bearing arms, were interned in a prisoners-of-war camp; the others were expelled from the Colony. As most of them were engaged in trade, and had business of greater or less importance, it became necessary to provide machinery for the realisation of their stocks, the completion of their contracts, and the protection of their creditors. The principal Ordinance (No. 28) and the amending Ordinance (No. 30) were accordingly passed. An "alien enemy" was defined to mean "an alien whose Sovereign or State is at war with His Majesty, and includes every body corporate, incorporated or established in the territory, or within the jurisdiction, or under the laws, of any Sovereign or State that is at war with His Majesty,

and includes every firm which has, or which at any time since the outbreak of war has had, a partner or an office in the territory of any Sovereign or State that is at war with His Majesty" (s. 2). If any question arises as to whether any person is or was an alien enemy or not, a certificate under the hand of the Colonial Secretary that in his opinion such person is or was an alien enemy shall be sufficient proof for all purposes that such person is or was an alien enemy as the case may be, and the onus of proving that such person is not or was not an alien enemy shall lie upon the person asserting such to be the case (s. 3).

No alien enemy may carry on any trade or do any act in furtherance of or in contemplation of any trade, or make any disposition of any property, without the permission of the Governor; nor may any firm which has an alien enemy partner or an alien enemy manager. No person may without the permission of the Governor pay any money or part with any property whatsoever to or for the benefit of any alien enemy, or in any way deal with any property for the benefit of an alien enemy, whether such alien enemy be within or without the Colony. Any permission given may be subject to such conditions, restrictions, and limitations as the Governor may think fit (s. 4).

When an alien enemy has been ordered to quit the Colony, or has been made a prisoner of war, or has been detained, or is absent from the Colony, the Governor may appoint a liquidator to wind up the affairs of any trade formerly carried on in the Colony by such alien enemy, and to wind up the personal affairs of such alien enemy. Every liquidator is empowered to retain out of the assets of the trade or out of the personal assets of the alien enemy the expenses incurred in the course of the winding up, and also a sum of money equal to 2½ per cent. on the total assets realised or brought to credit by the liquidator, as remuneration for his loss of time and trouble (s. 5).

3. STRAITS SETTLEMENTS.

[*Contributed by* A. DE MELLO, ESQ.]

Ordinances passed—33.

Aerial Navigation.—No. 22 reproduces the provisions of the Act of the United Kingdom of 1911[1] and the Federated Malay States Enactment, No. 12 of 1912.[2]

[1] 1 & 2 Geo. V. c. 4. [2] See "Review of Legislation," 1913, p. 20.

Alien Enemies.—Three Ordinances, Nos. 24, 25, and 29 (relating respectively to Naval and Military News, Trading with the Enemy, Winding up of Alien Enemy Trading Companies), re-enact, in view of the circumstances arising out of the war, for the Colony the emergency legislation in England comprised in statutes such as 4 and 5 Geo. V. c. 87.

Excise.—Ordinance No. 11, which amends the Liquors Revenue Ordinance,[1] besides effecting minor amendments of form, makes the law more effective and liberal than hitherto by providing that:

(*a*) The Governor in Council may prohibit the importation of intoxicating liquors on giving four months' notice of such prohibition.

(*b*) Dutiable liquors are only to be issued for ship's stores on the certificate of the master or agent that they are required for the ship's use. No such liquors are to be made use of in port without the written permission of the Superintendent of Government Monopolies.

(*c*) Dutiable liquors brought to the port as ship's stores may be made use of in the port unless the Superintendent forbids it.

(*d*) Distillery licences may be suspended or cancelled by the Colonial Secretary:

(*e*) The privilege accorded by Ordinance No. 22 of 1909 to medical practitioners, Government analysts, and licensed chemists to distil, without a licence, intoxicating liquors for medical or scientific purposes, is extended, with the approval of the Colonial Secretary, to analytical chemists.

(*f*) Holders of chemists' licences may, with the permission of the Superintendent, sell absolute alcohol and rectified spirits in quantities not exceeding two gallons, solely for medical or scientific purposes.

Opium.—Ordinance No. 12, which similarly amends the Chandu Revenue Ordinance,[2] introduces two noteworthy changes:

(1) It adopts the definition of "opium" and "prepared opium" (= Chandu) which was agreed on at the International Opium Conference held at the Hague in 1912.

[1] No. 22 of 1909.

[2] No. 21 of 1909.

(2) It makes it an offence for any other than the licensee of a public smoking-room to have in his possession any chandu dross exceeding 3 tahils in weight, or for any one to possess re-prepared chandu dross, or to offer for sale to the Superintendent chandu dross which is adulterated.

Companies.—Pending the passing of a new and consolidating Ordinance based on the Companies Acts, 1908–1913 of the United Kingdom, at present before the Legislative Council, Ordinance No. 9 has introduced amendments into Ordinance No. 5 of 1889, designed to preventing the recurrence of the irregularities and abuses disclosed, *e.g.* by the failure of the Chinese "Kwong Yik" Bank in Singapore in November 1913. It imposes in the interest of the community the following duties on banking and insurance companies, and on deposit, provident, and benefit societies:

(*a*) To abstain from making advances to any director, or other official of the company or society except under certain limitations.

(*b*) To keep their books of account in the English language:

(*c*) To have their half-yearly statement of assets and liabilities certified by an auditor approved by the Governor in Council.

(*d*) To have a copy of such statement published in an English newspaper of the Colony.

The duty imposed on the auditor is:

(*a*) To examine the statement of assets and liabilities with the books of account.

(*b*) To inspect the securities mentioned in the statement.

(*c*) To satisfy himself that the statement is a full, true, and complete statement.

Copyright.—No. 18 introduces certain necessary modifications into the provisions of the (Imperial) Copyright Act, 1911.[1]

S. 2 modifies s. 14 of that Act by providing for the prohibition of the importation into the Colony of copyright-works originating outside the Colony. At the suggestion of the Secretary of State of the Colonies and the Board of Trade, s. 3 reproduces the provisions of s. 11 of the Imperial Act, which extend only to the United Kingdom.

Domestic Servants.—Passed after considerable opposition,

[1] 1 & 2 Geo. V. c. 46.

Ordinance No. 17 introduces for the first time in the history of this Colony a system of registration of domestic servants with a view to checking the use of false testimonials and enabling masters to obtain certain information as to the character of the persons they employ. The operation of the Ordinance has been limited to such local areas as may be declared by the Governor in Council, and its application within such areas has been restricted to the class of householders who are expected to desire the benefit of its provisions. Hence the term "master" is defined (s. 2) to mean any person residing in a house the monthly rental of which is not less than $40 (= £56 per annum), and having a servant in his employ therein. In the case of such a master, registration of his servants is made compulsory (ss. 4, 5), unless they are of the same nationality as himself, when registration is optional at the discretion of the master.

The Registrar, upon registering a servant, is required (s. 8) to issue to him an authenticated copy in the form of an "Engagement Book" of the particulars recorded in the Register. This book is to be produced whenever the servant is engaged by a master or quits his service (ss. 18, 14, and 15); in the former case, for the master to enter the particulars of the engagement, and, in the latter, the date, cause of discharge, and the character of the servant. If the master is unwilling to give the servant a character, or to state the cause of discharge, he is required to furnish his reasons in writing to the Registrar for so refusing (s. 15). The master is also required, on engaging or discharging a servant, to send a formal notice or such engagement or discharge, bearing a 20-cent stamp, to the Registrar.

Certain fees are prescribed (s. 20) in respect of registration, etc.; and masters as well as servants are subject to penalties (s. 19) for acts or omissions contrary to the provisions of the Ordinance.

General Loan and Inscribed Stock.—Ordinance No. 19 is a transcript of the Model Draft Ordinance drawn up by the Crown Agents for the Colonies, embodying provisions deemed to be appropriate in case of loan legislation in the Colonies; at the suggestion of the Secretary of State for the Colonies, it replaces and repeals the old Ordinance on the subject.[1] A similar Enactment[2] has been passed in the Federated Malay States.[3]

Holidays.—Ordinance No. 25 amends the Holidays Ordinance No. 9 of 1879, and introduces a liberal amendment in the interest

[1] No. 25 of 1906. [2] No. 3 of 1915. [3] See *infra*, p. 66.

of local religions by (1) appointing a public holiday at the close of the Mohammedan fasting month; (2) extending the Hindu Taipusum festival day as a public holiday throughout the Colony instead of restricting it to the Settlement of Penang only, as hitherto.

Life Assurance.—No. 33, following the Assurance Companies Act of 1909[1] of the United Kingdom and the (Indian) Life Assurance Companies Act, No. 6 of 1912,[2] aims at preventing the springing up of mushroom life-assurance companies, and the certain loss of policy-holders consequent on the collapse of such companies: it is based on the principle of a *minimum* State control and a *maximum* of publicity.

The Ordinance provides, *inter alia*, for the making of a deposit by a company before commencing business (s. 4), for preparation of proper accounts and balance-sheets (s. 7), for the deposit thereof with the Registrar, for their publication in the *Government Gazette* (s. 10), and for periodical valuations by an actuary (s. 8).

It also provides that, where a life-assurance company does other business, the life-assurance fund must be completely separated (s. 5), and must be appropriated as security for the life-policy holders (s. 6).

The provisions of the Ordinance do not apply (s. 27) to any company doing business in this Colony which has made a deposit in the United Kingdom, under the above-mentioned Assurance Companies Act, 1909; but such company must deposit in the Colony copies of every account, balance-sheet, abstract, statement or other document, which it is required by the English Act to deposit with the Board of Trade.

Merchant Shipping.—Owing to the alterations made by the Imperial Merchant Shipping Act, 1906,[3] with respect to the deduction of the space occupied by propelling power in ascertaining the tonnage of a ship, the tonnage of many of the ships (British local trade steamers leaving the Colony, and foreign local trade passenger steamers and tugs) referred to in ss. 16 and 17 of the local Merchant Shipping Ordinance,[4] has been very much increased; hence, the officers to be carried by such ships must be greater in number, and must hold certificates of competency of a higher grade than hitherto. The amendments introduced by this

[1] 9 Edw. VII. c. 49.
[2] See Journal, vol. xiv. p. 71
[3] 6 Edw. VII. c. 48.
[4] No. 32 of 1910.

new Ordinance (No. 32) (ss. 2 and 3) permit the Governor in Council to relieve these ships of the obligation so created.

The new Ordinance also—

(1) Extends to Asiatic seamen, subjects of a British Protectorate, the protection in the way of agreements, etc., afforded to Asiatic seamen who are British subjects.

(2) Brings the requirement in s. 147 of the Ordinance of 1910 as to certificates of survey for passenger steamers in line with the provisions of s. 363 of the Imperial Act of 1894.

(3) Incorporates, at the suggestion of the Secretary of State, the provisions of s. 15 of the Imperial Pilotage Act, 1913.[1]

Minor Offences.—Ordinance No. 7 amends Ordinance No. 13 of 1906 by enabling the Inspector-General of Police to make rules, subject to the approval of the Governor in Council, for :

(*a*) Prohibiting the passage through the streets of vehicles so constructed or loaded as to be dangerous to the public ; and

(*b*) Restricting the use of specified streets or bridges to specified descriptions of the traffic.

The following acts, obviously requiring repression, are added to the offences specified in ss. 14 and 15 of the principal Ordinance of 1906 :

(*a*) Allowing pigs to root in any Crown land or lands in the possession of any public institution.

(*b*) Driving any horse otherwise than from the driving-seat of the vehicle drawn by the horse, or driving any cycle otherwise than from the seat of the cycle.

(*c*) Driving any vehicle with the number hidden from view.

(*d*) Doing any act which interferes with the use of the wires of a telephone.

As a means of detection of bad characters, power is given to the police to take finger-impressions of persons arrested (by virtue of ss. 26 and 35 of the Ordinance of 1906) under circumstances indicative of an intention to commit an offence.

Finally, the amending Ordinance provides that :

(*a*) Implements used in the commission of the offence of fortune-telling (s. 31) shall be liable to forfeiture.

(*b*) Lights on vehicles should be clearly visible at night.

[1] 2 & 3 Geo. V. c. 31.

Police Assistance.—No. 1 empowers, like the Federated Malay States Enactment, No. 19 of 1913 [1] for speedy action, the officer in charge of, or a Sergeant of Police in a District of the Colony (not necessarily the Governor as had been the case hitherto), having a common boundary with any administrative District of the Federated Malay State, to despatch on application made by a public officer of such District of the Federated Malay States, a detachment of the Police Force of the Colony to the assistance of such District.

Traction Engines and Motor-cars.—Ordinance No. 6 makes several important amendments in the principal Ordinance No. 19 of 1911 [2] by—

(*a*) Making the owner of a traction-engine or motor-car liable for its being driven unregistered, or when the mark to be affixed thereon is not so affixed (s. 2). This does not interfere with the alternative liability of the driver under the Ordinance of 1911.

(*b*) Makes the giving of false information by an applicant for a driver's licence under s. 5 (6) an offence (s. 3).

(*c*) Imposes a duty on the driver to stop in case of accident occasioned to "property" of any kind "owing to the presence of the traction-engine or motor-car on the road" (s. 4).

(*d*) Prohibits the driving of a motor-car overcrowded with passengers, or from which any article projects so as to interfere with traffic and also the riding on a car otherwise than inside it (s. 5).

(*e*) Imposes on a driver holding a Federated Malay States licence the duty of producing it when called on so to do by a European Police Officer or other Police Officer of or above the rank of Sergeant, and makes a breach of that duty an offence (s. 7).

(*f*) Gives power to the Governor to make rules (i) prohibiting the use of any appliance or the doing of any act which is likely to cause annoyance or danger; (ii) regulating the rebate of fees to dealers in respect of locomotives exported by them from the Colony; (iii) empowering the Licensing Officer to determine the number of persons to be carried by a motor-car (s. 9).

[1] See "Review of Legislation," 1913, p. 23. [2] See Journal, vol. xiii. p. 342.

(*g*) Makes the removal of a traction-engine or motor-car pending the order of a Magistrate, from the place to which it has been taken by a Police Officer, an offence (s. 10).

Trustees.—Ordinance No. 28 arises from a Bill prepared by the commissioners appointed by the Statute Law Revision Ordinance,[1] and contains considerable alterations and amendments of the law previously in force, comprising as it did such old enactments as the Indian Acts No. 17 of 1843, and 27 of 1866.

The amendments referred to have been taken from the Trustee (Consolidation) Act, 1893 (56 & 57 Vict. c. 53), and contain provisions which, originally introduced in England with the object of mitigating the terrors of the office of trustee, have been in operation there since 1888.

Such are the provisions relating to :

(i) Loans and investments by trustees not being chargeable to them as breach of trust (s. 7).

(ii) Liability for part of loss by reason of investment in a mortgage security for an excessive amount (s. 8).

(iii) Power to sell subject to depreciatory conditions (s. 13).

(iv) Power to sell under the Conveyancing and Law of Property Ordinance No. 6 of 1886 (s. 14).

(v) Power of married woman to convey as bare trustee (s. 15).

(vi) Power of trustees of renewable leaseholds to renew and raise money for the purpose (s. 18).

(vii) Exoneration of trustee in respect of acts done under a power of attorney, not then known to him to be void (s. 22).

(viii) Power of trustee to sell, subject to sanction of Supreme Court, land or minerals separately (s. 44).

(ix) Power to Supreme Court to make beneficiaries indemnify trustee for breach of trust where committed at their instigation, request, or consent in writing (s. 45).

Wild Birds.—No. 5 is an amendment designed for the preservation (by reason of an international consensus of opinion) not only of local plumage-birds, but also of those of other countries. It makes the exportation of wild-birds, the killing of which is prohibited by the principal Ordinance,[2] as also the importation of

[1] No. 23 of 1910.

[2] No. 16 of 1904.

wild-birds from any country where the exportation is prohibited, offences. The Ordinance of 1904 penalised the offering for sale, but not the exportation, of such birds.

Women and Girls Protection.—No. 26 consolidates, with certain modifications, the provisions of the old Ordinance on the subject [1] with those of such measures as the Criminal Law Amendment Act, 1912, of the United Kingdom,[2] which, following on the agitation in England and the signing at Paris in May 1910 of an International Convention against the "White Slave Traffic," made the law more stringent against procuration for immoral purposes, and, in certain instances, added the punishment of whipping.

Food and Drugs.—No. 15 is an Ordinance relating to the sale of food and drugs in the same terms as Federated Malay States Enactment, No. 9 of 1913.[3]

4. FEDERATED MALAY STATES.

[*Contributed by* A. DE MELLO, ESQ.]

Enactments passed—33.

All these Enactments were passed in the latter part of the year.

Banishment.—The penalty provided by law prior to the passing of the Banishment Enactment, No. 10 of 1910, for unlawful return from banishment was rigorous imprisonment for any term *not exceeding* that for which the person convicted had been banished. Under s. 10 (iii) of that Enactment the penalty is rigorous imprisonment for a term *equal* to that for which the person convicted was banished. As banishment is often for life, and the penalty for unlawful return seemed rather excessive, the present Enactment (No. 9) fixes it, on first conviction, at a maximum of five years, and for subsequent convictions, to fifteen years. An analogous Bill proposed in the Straits Settlements met with opposition, and was accordingly withdrawn.

Extradition.—No. 26 based on the Extradition Act 1870, supersedes Enactment No. 21 of 1912,[4] which dealt with extradition to Siam only (with whom a diplomatic arrangement exists for reciprocal action in the matter), and makes statutory provision for

[1] No. 17 of 1896.
[2] 2 & 3 Geo. V. c. 20.
[3] See "Review of Legislation," 1913, p. 21.
[4] See Journal, vol. xiv. p. 89.

carrying into effect extradition arrangements with foreign countries in general.

Inventions.—Since the Federation of the Malay States in 1896, it had frequently appeared anomalous that protection for inventions should have to be sought separately in each individual State, the power of granting exclusive privileges being vested by statute in the respective Rulers of the States-in-Council. These Rulers had, as early as 1906, consented to the surrender of these powers to the Resident-General (now "Chief Secretary"), but divergency of views as to the scope of the legislation to be introduced led to delay. The present Enactment (No. 19), which provides for the making of a single grant operative throughout the Federated Malay States, is based generally on the provisions of the Patents and Designs Act, 1907, of the United Kingdom,[1] with the retention of certain provisions from the existing laws of those States, and the adoption of others from the law of the Straits Settlements.[2]

Powers analogous to those of the Comptroller-General under the English Act are given to the Chief Secretary, who is authorised to delegate these powers to one or more officers. The power to extend an exclusive privilege is given by the Bill to the Executive; the power to revoke it is in all cases vested in the Court.

S. 24 (which deals with applications by holders of British or Colonial patents) places such holders in the same favourable position as they enjoy in the Straits Settlements. The provisions contained in s. 24 (ii) of the draft bill for according specially favoured treatment to persons to whom exclusive privileges for an invention had been granted in the Straits Settlements, were struck out, and failed to become law.

Labour.—No. 32 amends the Labour Code[3] by—

(*a*) Removing the provisions relating to written contracts by *Chinese* "indebted immigrants," in view of such contracts being prohibited by s. 36 of the Code.

(*b*) Removing also the provisions relating to written contracts to labour (of which hardly any are now in force) by *Indians*, and prohibiting such contracts for the future.

[1] 7 Edw. VII. c. 29.
[2] Ordinance No. 12 of 1871.
[3] Enactment No. 6 of 1912. See Journal, vol. xiv. p. 90.

(*c*) Making more complete provision on the subject of supply of food by employers to labourers, in accordance with the recommendations of a Committee which reported thereon in April, 1913.

(*d*) Removing certain difficulties which arose in connection with the provisions of Chapter VI. of the Code (relating to verbal agreements and the notice whereby they may be terminated).

(*e*) Extending the scope of the powers conferred by ss. 178 and 179 of the Code, so as to enable action to be taken against an employer who seems likely to abscond, and inquiry to be made into disputes between employers and labourers, whether the parties be engaged in mining or in agriculture.

(*f*) Prescribing the mode of service of a summons issued by the Controller of Labour.

Undeveloped Land.—No. 27 amends the State Enactments of 1907 on the subject, by providing for the imposition of a rate on lands abutting on streets which remain unbuilt on, so that such additional rate might act as a stimulus to building, and thus remedy the evil of insufficient house-accommodation frequently complained of.

Wild Birds.—No. 16 is analogous to the Straits Ordinance No. 5 of 1914.[1]

The rest of the Enactments of note seek either (*a*) to codify and amend the law already existing in the individual States, as *e.g.* the Enactments relating to *Forests* (No. 18); *General Loan and Inscribed Stock* (No. 3)[2]; *Pawnbrokers* (No. 10); *Petroleum* (No. 23): *Poisons* (No. 11); *Savings Bank* (No. 17); or (*b*) to bring, by amendment or otherwise, the law in the Malay States into harmony and conformity with that in the Colony of the Straits Settlements, *e.g.* the Enactments relating to *Advocates and Solicitors* (No. 22); *Companies* (No. 28), based on Straits Ordinances No. 14 of 1909 and 9 of 1914; *Corporations Duty* (No. 20), based on Straits Ordinance No. 2 of 1906; *Traction Engines and Motor-cars* (No. 15), based on Straits Ordinances Nos. 2 of 1913 and 6 of 1914; *Women and Girls Protection* (No. 5), based on Straits Ordinance No. 26 of 1914; or (*c*), lastly, provide for the emergencies

[1] See *supra*, p. 63. [2] See Straits Ordinance 19 of 1914, *supra*, p. 59.

created by the present European crisis, *e.g. The Public Emergency Enactments* (Nos. 1 and 5); *The Straits Settlements Proclamations Enactment* (No. 7); *Neutrality Enactment* (No. 12); *Naval and Military News Enactment* (No. 29); *Trading with the Enemy Enactment* (No. 30).

5. MAURITIUS.

Ordinances passed—52.

Protection of Wild Birds.—By Ordinance No. 3, amended by No. 34, the Governor may prohibit the exportation of any bird or its plumage from the island. The taking of the eggs of any bird, except the sparrow or the bul-bul, is forbidden by No. 20.

Aircraft.—No. 9 is the usual Ordinance giving the Governor power to prohibit or regulate aircraft over any part of the island.

Copyright.—Owners of copyright may give notice, under No. 13, that they do not desire a work to be imported into the island. It will then be protected as if published in the island, and becomes a prohibited import.

Customs Duties.—The duty on goods purchased by the naval or military authorities, or supplied by contractors for the use of the royal forces, is refunded in full by Ordinance No. 19, except on meat, of which 83 per cent. will be returned, and "as regards bread, the refund shall be of the duty paid on 100 lb. of flour for every 130 lb. of manufactured bread."

Pilotage.—The owner or master of a vessel being navigated under compulsory pilotage is made liable by No. 23 for damage, as if the pilotage were not compulsory.

Trading with the Enemy.—A proclamation against trading with the enemy was issued on September 15 and confirmed a month later by Ordinance No. 28.

Bills of Exchange.—The law upon the subject of bills of exchange was consolidated in No. 32, and follows the lines of English legislation.

Legal Profession.—Ordinance No. 36, establishing a Bar Council with disciplinary authority, has been disallowed.[1]

Forestry.—Ordinance No. 43 makes provision for the protection of forest produce and for the repression of larceny of timber by requiring a permit for the cutting of timber.

[1] See Journal, vol. xv. p. 169.

War Legislation.—The Articles of Commerce (returns, etc.) Ordinance (No. 50) is similar to the Act passed in the United Kingdom.[1]

Juvenile Offenders.—No. 53 authorises the committal of juvenile offenders under the age of sixteen years to a reformatory instead of to prison, with a proviso that if the sentence is so long that the period of detention extends over the age of eighteen, then the convict may be transferred to gaol upon attaining that age. Sentences of whipping are carried out by a police officer in the presence of a higher police official, and of the parent or guardian, if he desires.

6. SEYCHELLES.

Ordinances passed—20.

Wild Birds' Protection.—No. 1 prohibits the exportation of any bird specified by Proclamation, its skin or plumage.

Pensions.—No. 2 is the Ordinance being adopted in the Crown Colonies in reference to directorships held by retired civil servants.[2]

Wireless Telegraphy.—No. 3 places any system of wireless telegraphy established in the colony under the licence of the Governor.

Pilotage.—By No. 4 the owner or master of a vessel navigating under circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel in the same manner as he would if pilotage were not compulsory.

Police Magistrate.—The law relating to summary jurisdiction is consolidated in No. 6, which at the same time separates the office of Police Magistrate from that of Crown Prosecutor. The jurisdiction of the magistrate is extended from offences punishable by a fine of Rs. 100, or one month's imprisonment, to penalties of Rs. 250, or two months' imprisonment.

Civil Service.—By No. 7 Heads of Government Departments are given power to try and to convict their subordinates of offences against the discipline of the office. It applies to any subordinate officer—clerk, mechanic, servant, or labourer—whose salary does not exceed Rs. 750, other than those of the Police and Prison Departments. The punishment is by fine not exceeding five rupees, which may be deducted from the offender's pay. Damage to Government

[1] See *supra*, p. 17. [2] See, *e.g.*, Index to Review of Legislation 1913.

property to the extent of ten rupees or more, if approved by the Governor, may be paid for by deductions from salary. The Heads of the Departments are to supply monthly to the Governor a list of the fines imposed under the Ordinance, and he may withhold the power of fining from any Head of a Department.

Supreme Court.—The Ordinances relating to the Registrar of the Supreme Court are consolidated in No. 9. The fees of the Court are raised by No. 8.

War Emergency Legislation.—No. 12, passed on August 3, is in general terms authorising the Governor to forbid by Proclamation trading with the enemy. This was extended by No. 20 so as to impose penalties of seven years' penal servitude and a fine not exceeding Rs. 5,000, to authorise the issue of warrants of inspection and the appointment of Controller of any business where any offence has been or is likely to be committed in connection with it. No. 13 is of a similar character to deal with the exportation of arms, ammunition, and military and naval stores. No. 14 authorises the issue of a paper currency redeemable only in silver rupees of India. The prices of rice, sugar, flour, lentils, maize, and coffee may be regulated by Proclamation under No. 15.

Copyright.—Copies made out of the Colony are brought, by No. 18, under the provisions of the law as if copyrighted in the Colony, provided that the owner of the copyright gives notice that he does not desire the books to be imported into the Colony.

7. WEI-HAI-WEI.

Ordinances passed—6.

Land Registration.—Arrangements are made by No. 1 for the registration of conveyances or mortgages of land.

Civil Service.—Ordinance No. 2 enacts the provision as to directorships being held by retired civil servants which is being adopted generally in the colonies.[1]

Copyright.—No. 4 provides for books produced outside the territory in similar terms to ordinances enacted elsewhere.[2]

Wild-birds and Game.—The law for the preservation of wild-birds and game is re-enacted and extended by No. 6.

[1] See, *e.g.*, Seychelles, *supra*, p. 68.

[2] See, *e.g.*, Mauritius, *supra*, p. 67.

IV. AUSTRALASIA.

1. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* R. R. GARRAN, ESQ., C.M.G.]

War Legislation.—The main legislation necessitated by the war comprised the two Trading with the Enemy Acts, the two Patents, Trade Marks, and Designs Acts, the War Precautions Act, and the War Pensions Act.

The Trading with the Enemy Acts and the Patents, Trade Marks, and Designs Acts are similar to the Acts of the United Kingdom on these subjects passed in 1914.

The War Precautions Act is substantially identical with the Defence of the Realm Acts, 1914, of the United Kingdom, together with the Aliens' Restriction Act, 1914.

The War Pensions Act provides for the granting of pensions upon the death or incapacity of members of the Commonwealth Forces and members of the Imperial Reserve Forces resident in Australia, whose death or incapacity results from employment in connexion with warlike operations.

A Pensions Board is created which is charged with the duties (*inter alia*) of—

(*a*) Determining whether the death or incapacity has in fact resulted from employment in connection with warlike operations, and the nature and extent of incapacity;

(*b*) Determining the degree of dependence of dependents; and

(*c*) Assessing the rates of pensions to members and dependents.

The rates of pensions are not to exceed the following:

A. In the case of death:

(i) To the widow, the rate specified in column two of the Schedule opposite to the rate of pay of the deceased; and

(ii) To each child, £13 per annum, and

(iii) To other dependents, such rates as the Board fixes, but not exceeding in the aggregate the rate specified in column two opposite to the rate of pay of the deceased plus £52 per annum.

The maximum rate payable to any one dependent is not to exceed the amount in column two of the Schedule opposite the deceased's rate of pay.

B. In the case of total incapacity:

(i) To the soldier, the rate specified in column three of the Schedule opposite his rate of pay; and

(ii) To his wife, 50 per centum of that rate, and

(iii) To each of the children, £13 per annum.

C. In the case of partial incapacity, less rates than those referred to in *B* as the Board fixes.

In certain cases where the pension would be very small, the Board may award a lump sum in lieu of a pension.

The Schedule to the Act is as follows:

SCALE OF PENSIONS PAYABLE TO WIDOW ON DEATH OF A MEMBER OF THE FORCES OR TO A MEMBER UPON TOTAL INCAPACITY.

Column One. Rate of pay of the member per day.	Column Two. Pension payable to widow on death of member.	Column Three. Pension payable to member upon total incapacity.
s. *d.*	£ *s.* *d.*	£ *s.* *d.*
6 0	52 0 0 per annum	52 0 0 per annum
7 0	56 0 0 " "	56 0 0 " "
9 0	64 0 0 " "	64 0 0 " "
10 0	68 0 0 " "	68 0 0 " "
10 6	70 0 0 " "	70 0 0 " "
11 6	73 0 0 " "	73 0 0 " "
12 0	74 10 0 " "	74 10 0 " "
13 0	77 10 0 " "	77 10 0 " "
17 6	91 0 0 " "	91 0 0 " "
22 6	101 0 0 " "	101 0 0 " "
30 0	116 0 0 " "	116 0 0 " "
37 6	131 0 0 " "	131 0 0 " "
45 0	146 0 0 " "	146 0 0 " "
50 0 and upwards.	156 0 0 " "	156 0 0 " "

Where the rate of pay of a member of the Forces exceeds a rate shown in column one of this Schedule and is less than the next higher rate in that column, the rates of pensions payable for the purposes of columns two and three shall be computed by a proportionate calculation as defined in the Act.

The pension to a widow ceases upon re-marriage. The Act extends to Imperial reservists resident in Australia, who are called up for service, but any pension or compensation payable under an

Imperial Act is to be taken into account in assessing the pension, and the pension is only payable to persons resident in Australia.

The Belgian Grant Act provides for the grant of £100,000 for the relief of Belgium.

Commerce.—The Meat Export Trade Commission Act provides for the appointment of a Judge of the Supreme Court of New South Wales as a Royal Commission [1] to inquire into and report on operations of any trust with regard to the meat export trade.

The Iron Bounty Act provides for the payment of a bounty on the manufacture of pig-iron from Australian ore. The bounty is to be at the rate of 8*s.* per ton, the total amount to be paid being fixed at £30,000. The bounty expires on December 31, 1915. The manufacturer, in order to claim the bounty, must pay standard rates of wages, and the conditions of employment must be the standard conditions. The manufacturer is also required to enter into a bond that he will transfer to the State in which the pig-iron is manufactured all lands, buildings, machinery, plant, equipment, etc., used in the manufacture of pig-iron, if so required by the Governor of the State within twelve months of the expiry of the bounty, upon payment of fair compensation to be assessed in case of dispute by the President of the Commonwealth Court of Conciliation and Arbitration.

The Customs Act empowers the Governor-General to prohibit the export of any goods in time of war.

Financial.—The financial position of the Commonwealth and the ever-increasing expenditure have made it necessary to impose increased taxation by the Commonwealth.

Under the amending Land Tax Act the rate of tax has been altered, so that the maximum rate is now 9*d.* instead of 6*d.* for residents, and 10*d.* instead of 7*d.* for absentees. The increase in the amount of tax on the lower values is small, but it rises considerably as the value of the land increases.

Under the principal Land Tax Assessment Act, Crown leases (other than perpetual leases without revaluation or right of purchase leases) were exempt from taxation. The amending Land Tax Assessment Act only exempts such Crown leases as are not perpetual leases, right of purchase leases, pastoral, grazing, cultivation, homestead, mining, or timber leases. It practically makes

[1] The report of this Commission has been presented to Parliament.

all Crown leases liable to taxation, if the unimproved value of the lease is greater than £5,000. Crown leases for a term not greater than one year certain are exempt from taxation.

In addition to the increase of the land tax, the Commonwealth Legislature imposed a duty on the estate of deceased persons. Under the Estate Duty Act the rates of duty are 1 per cent. where the estate exceeds £1,000, and does not exceed £2,000, and where the estate exceeds £2,000, one-fifth per cent. for every £1,000 or part thereof in excess of £2,000, with a maximum of 15 per cent.

The Estate Duty Assessment Act is the machinery act in connection with the collection of estate duty. The provisions relating to returns, assessments, objections, appeals, and collection and recovery of duty are based on the Land Tax Assessment Act 1910. The provisions relating to the property comprising the deceased's estate are practically the same as the provisions in the legislation of other countries on this subject. Estate duty is not payable on so much of the estate as passes for religious, scientific, charitable, or public educational purposes; and in respect of so much of the estate as passes to the widow, children, or grandchildren the duty is two-thirds of the rate that would be otherwise payable.

With a due recognition of patriotism, it is provided that the Act is not to apply to the estate of any person killed in the present war, or who dies within twelve months of its termination from injuries received or disease contracted in the war.

With regard to the apportionment of duty amongst the beneficiaries of the estate, the Act provides that the duty is first apportioned amongst all the beneficiaries in proportion to their shares in the estate, and then the duty which would be payable by any beneficiaries, whose shares are less than £200 in value, is apportioned amongst all the beneficiaries. Thus a beneficiary of over £200 who receives, say, one-fifth of the estate, pays one-fifth of the total duty plus one-fifth of the duty assessed on the shares of persons, whose interests in the estate are less than £200, while a beneficiary who receives a legacy of less than £200, amounting to, say, one-twentieth of the whole estate, would pay one-twentieth of the duty assessed against his legacy from the estate.

Fresh customs and excise tariff proposals have been introduced into Parliament. These proposals generally increase the rates provided in the existing tariffs, and the customs tariff proposal,

in addition, grants an extended measure of preference to goods of British manufacture. The proposals are not yet law, but, in accordance with constitutional usage, duties are in the meantime being collected at the rates shown in the proposals.

Conciliation and Arbitration.—The Conciliation and Arbitration Act makes some important amendments in the principal Act. The main provision relates to the power of the High Court to issue a writ of prohibition to the Arbitration Court.

It has been frequently the case that, after a protracted hearing of the plaint in the Arbitration Court, there is an equally protracted hearing before the High Court on the question of jurisdiction, and in some cases the award has been quashed. This is very well illustrated in the recent tramways employees case, where, more than three years after the filing of the original plaint, and after protracted hearings in both the Arbitration Court, which made an award in favour of the employees, and in the High Court, the High Court held that the Arbitration Court had no jurisdiction to hear the plaint. Two of the Judges who were engaged on that case commented very adversely on the employers having two strings to their bow, and recommended that the question of jurisdiction should be settled once and for all at the commencement of the hearing of the plaint in the Arbitration Court.

The amending Act carries out that suggestion, and provides that, when a plaint is submitted to the Arbitration Court, either party may apply to the High Court for a decision as to the jurisdiction of the Arbitration Court to hear the plaint.

The High Court is to consist of a single Judge, whose decision is final and without appeal.

Under these provisions the question of jurisdiction is settled before an award is made, and, after an award is made, the employer will be unable to upset it on the ground of the want of jurisdiction of the Arbitration Court.

Under the principal Act the President was bound to deregister an association if certain matters were proved, some of which were of minor importance. In several cases which came before the President, owing to his having no discretionary power, he had to deregister associations for mere trivial offences, which could have been rectified by a slight alteration of the rules. It was considered that in these cases, which were not flagrant evasions of the Act,

the President should have a discretion as to whether he would deregister the offending association. The amending Act now invests the President with a discretionary power in respect of the deregistering of associations guilty of breaches of the Act.

The other amendments of the Act are for the purpose of rectifying minor points which have been discovered in the administration of the Act.

Criminal Law.—Another important Act passed during 1914 was the Crimes Act, which provides for the punishment of offences against the Commonwealth. Owing to the fact that the Commonwealth is a statutory creation, with legislative powers confined to enumerated subject matters, it has been generally assumed that there is no common law of the Commonwealth, as a source of criminal jurisdiction.

The common law is part of the law of the States, and offences in respect of matters within the cognisance of the Commonwealth were supposed not to be offences against the law of the Commonwealth, but only against the common law and criminal codes of the States, unless there was Commonwealth legislation dealing with those offences.

To remedy this, the Crimes Act makes provision with regard to offences in matters which come within the cognisance of the Commonwealth, and thus makes them offences against Commonwealth law.

The Act is based on the English and State Criminal Codes, and there is no departure of any importance from those Codes, except that in almost all cases the maximum punishment is lighter.

The subjects dealt with are treason, offences relating to the administration of justice, offences relating to the coinage, forgery, offences by and against public officers, breach of official secrecy and espionage, and conspiracy in relation to Commonwealth law.

Banking.—The Commonwealth Bank Act amends the principal Act by enlarging the capital of the Bank from £1,000,000 to £10,000,000, by providing that the Bank may acquire and take over the business of any other bank, and by empowering the Governor of the Bank, with the consent of the Treasurer, to establish branches in any part of the King's dominions.

2. NEW SOUTH WALES.

[*Contributed by* N. DE H. ROWLAND, ESQ., B.A., LL.B.]

Acts passed—35.

During the year 1914 thirty-five Acts were passed. Of these Nos. 2, 4, 5, 10, 11, 15, 17, 20, 21, 23, 25, 26, 28, 29, 30, and 31 are not of general interest, being concerned for the most part with supply, loans, appropriation, local works, and the like.

The Acts of more general interest are as follows:

Parliamentary Committees.—No. 1 provides for the holding of certain committee elections in the second session of the present Parliament, where any Act required such elections to take place in the first session.

Stamp Duties.—Amendments to the Stamp Duties Act were passed in No. 3 with the purpose of increasing the revenue and closing up several existing avenues of escape. The details are not of general interest, but one or two matters of principle may be noted.

By s. 8 agreements for the sale of any equitable interest, or for the sale or exchange of any estate or interest in any property (with certain exceptions, which practically confine it to real property) are chargeable as if the agreement were the actual conveyance.

If the purchaser contracts to resell, before getting his conveyance, any excess of consideration is liable to *ad valorem* duty, and, if there is no excess, then to a fixed duty of £1 or 1*s.* (if not under seal).

If the *ad valorem* duty is paid on the contract, then the subsequent conveyance is only charged the fixed duty of £1.

But such a contract may be stamped in the first place with £1 or 1*s.*, which will be sufficient for purposes of any action or suit on the contract, and the contract will also be considered duly stamped if a conveyance thereunder is stamped with the *ad valorem* duty and £1 is paid on such conveyance within six months after the first execution of the contract or agreement. If such agreement or contract be rescinded, or becomes otherwise ineffectual, the *ad valorem* duty paid is to be refunded.

By s. 19 any broker or agent who buys or sells stock or marketable securities must make a contract note which is liable to duty. This does not apply to dealings *inter se* between brokers, etc., who

are members of stock exchanges in the Commonwealth. Contracts for options on stock, etc., are chargeable at half rates.

S. 21 provides that where the consideration for a sale consists of shares or debentures to be issued by a company, the value shall be the face value of the shares or debentures.

S. 29 restores the old law, making receipts for £2 or over liable to a stamp duty of 2*d*. It is an offence to refuse to give such a receipt, or to split the amount so as to evade duty.

S. 31 provides a sliding scale for duty upon settlements, deeds of gift, and voluntary conveyances ranging from ½ per cent. where the property does not exceed £1,000 to 5 per cent. where it exceeds £9,000. Such duty can be deducted from the amount payable if the settler dies within three years.

S. 35 provides that, with respect to voluntary dispositions made after the passing of the Act, a period of three years must elapse after the making of such disposition before the property ceases to be considered part of the deceased's estate for stamp duty. (The period had heretofore been one year.)

S. 36 provides that no matter when a voluntary settlement or gift of real property (including leaseholders) is made, it shall nevertheless form part of the deceased's estate unless *bona fide* possession and enjoyment thereof is immediately taken by the donee and retained to the entire exclusion of the donor. (This had previously been the case with personal property.)

Savings Bank.—For some years there had existed two Savings Banks in New South Wales, viz. the Savings Bank of New South Wales and the Government Savings Bank. Act No. 6 dissolves the former, vesting its property, rights, and liabilities in the latter, and providing for the transfer of accounts. It also extends the lending powers of the Government Savings Bank, by allowing loans on irrigation farm leases for certain purposes, notwithstanding the existence of a mortgage or charge thereon in favour of the Commissioner for Water Conservation and Irrigation, provided the approval of the Minister administering the Irrigation Act is obtained.

Closer Settlement.—Act No. 7 makes certain amendments in the existing statutes relating to closer settlement.

Further facilities are afforded for the purchase of private lands for closer settlement.

Annual leases of closer settlement lands are done away with

and a system of permissive occupancy of lands undisposed of within a settlement purchase substituted, the permit to be from month to month.

If forfeited settlement purchases cannot be disposed of as settlement purchases by the commissioners within a reasonable time, they may sell or lease, subject to any terms and conditions approved by the Minister. Movable improvements may in like manner be disposed of separately from the land.

Where a minor between sixteen and twenty-one obtains a settlement purchase, he is to be treated as of full age with respect to rights and liabilities under any agreement for work or services in connection with the purchase, or with respect to loans of money or sale and purchase of goods and chattels of any description.

Persons who, being in *bona fide* residence on any holding, acquire a settlement purchase within reasonable working distance, may carry out their residence conditions on the former, with the consent of the local land board or the Minister. "Holding" means any freehold, or any holding under the Crown Lands Acts or the Closer Settlement Acts.

Extension of time may be given to holders of settlement purchases to pay overdue instalments.

The age at which male persons may apply for land under the Acts is reduced to sixteen years.

Income Tax.—Act No. 8 contains two matters of interest.

S. 3 imposes a flat rate of 1*s.* in the £ on the income of companies.

S. 5 does away with the increased tax on absentees.

Otherwise the Act simply increases the tax.

Act No. 9 is also aimed at increasing revenue. Several matters of principle are interesting. S. 2 provides for the taxation of gains from the sale of property both real and personal, including shares in companies, where dealings in such property and shares was not in the course of the business of the tax-payer, and if certain specified periods have not elapsed between the purchase and sale. Losses may be set off against gains. Previously such profits had escaped, as being merely casual transactions which did not come under the head of dealing or business of the tax-payer.

Act No. 32 deals with a *casus omissus*, and provides that, if any person dies before the tax on his income becomes due, an assessment may be made on his executors or administrators, to be paid out of

the estate. The Act does not apply to persons whose estates have been wound up before the passing of the Act.

S. 3, *inter alia*, exempts the individual tax-payer from tax upon income derived from shares in a company.

Sydney Harbour.—No. 12 makes new provisions for the collection of inward and outward wharfage rates. It also abolishes the sinking fund for the repayment of money borrowed by the Trust for harbour improvements. The Trust is also empowered to collect inward and outward harbour rates to meet annual expenditure in dredging, lighting, improving, and maintaining the port of Sydney.

Boorabil Commission Act.—Act No. 14 increases the powers of the Royal Commissioner in an inquiry into the circumstances of the purchase by the Government of the Boorabil estate, and matters affecting the administration of the Department of Lands in connection therewith.

Postponement of Debts.—No. 16 provides, as a war emergency measure, that the Governor may from time to time, by proclamation in the *Gazette*, declare that payment of all debts then due or accruing due within the period mentioned in such proclamation, of the classes specified in the proclamation, or a specified proportion of such debts, may, subject to such conditions and exceptions as may be contained in such proclamation, be postponed to a date or for a period to be therein specified. Where interest was chargeable such interest shall continue to run, but shall not be payable during such postponement. Such proclamation is to have the force of law. The Act is to continue in force until six months after the declaration of peace.

Necessary Commodities Control Act.—No. 18 is an attempt by the Legislature to regulate the prices of necessary commodities to prevent the exploiting of the community by unscrupulous merchants and others. The Act is to be in force during the war and for not more than six months thereafter.

Necessary commodities are defined as coal, firewood, coke, or other fuel, gas, any article of food or drink for man or domesticated animals, articles used in the making of the foregoing, and any article declared to be a necessary commodity by a resolution of both Houses, on a report of the Commission.

The Commission consists of a Judge of the Industrial Court and two other members.

The Commission may inquire and report to the Governor as to what should be the highest selling prices in the State of necessary commodities, having regard to market conditions, quality, sale being wholesale or retail, and other matters of the kind.

The Governor may, by notice in the *Gazette*, declare maximum prices according to kind of sale, locality, conditions, quality, and so forth, and may vary previously fixed prices.

Penalties are fixed for selling above such prices and for refusal to sell at such prices if in the latter case any person has more than he requires for his family use for six months.

The Governor may, on the recommendation of the Commission, order returns to be made of necessary commodities in the State, which order may be of a general nature, or limited to particular persons or classes of persons.

The Governor may, upon a report by the Commission that necessary commodities which should be distributed are withheld from sale, seize and distribute, paying the declared price, less expenses of seizure and distribution.

The Commission is clothed with the necessary powers for summoning witnesses, etc.

It is interesting to note that the work of the Commission has been without intermission, and that they have been forced, by the combined effects of a serious drought and the war, to make a steady increase in the price of the staple foods, such as bread, milk, butter, and tea.

National Relief Fund.—At various times funds have been inaugurated in New South Wales for relief of persons injured in great disasters, or for patriotic purposes. Difficulties have arisen, when the immediate crisis was over, as to the application of surplus moneys, and it was also felt that firmer control should be had over the receipt and expenditure of such moneys.

Act No. 19 constitutes a board consisting of the Colonial Secretary, the Lord Mayor of Sydney, the Public Trustee, and six other members nominated by the Governor.

This National Relief Board of New South Wales is incorporated. The property of four specified funds is to be vested in this board, and other funds may be dealt with in like manner on resolution of both Houses.

Only the board and its authorised agents may collect moneys.

They are to be invested by the board as required by the Act, and the moneys at credit are to be expended for the relief of persons injured in war or public disasters, or of the dependents of persons killed or injured in such manner.

Subscriptions donated for a specific purpose are to be thereto applied, so far as practicable.

The Public Trustee is the trustee of the fund.

Local Government.—Act No. 22 provides for the borrowing of money by Shire Councils for carrying out works which they are authorised by law to undertake.

A limit is put to the aggregate amount of such loans, viz. three times the income for the last year. Repayments are to be made by instalments over a period based on the probable life of the works.

Ten per cent. of the rate-payers may petition the Council for a poll before the Governor's approval of a proposed loan, and, if the vote is adverse, no proposal for the like purposes shall be sanctioned until the vote is reversed, which may not occur within twelve months.

Loans may be secured on income, and the Shire Councils have the same power to give debentures, mortgages, or bonds as Municipal Councils under the Local Government Act, 1906.

The purpose of Act No. 24 was to validate certain irregular loans and expenditures raised or made by certain local government bodies.

Wheat Acquisition.—The combined effect of drought and war having caused a shortage of wheat in New South Wales, the Parliament attempted in Act No. 27 to provide against the consequent exploitation of consumers.

The Act ceased to have effect on September 30, 1915.

The Governor may notify in the *Gazette* that any wheat therein referred to is acquired by His Majesty. Thereupon it vests in the Crown free of all encumbrances and interests, which are converted into claims for compensation.

Provision is made for notifying the board (hereinafter mentioned) and all persons interested.

The Minister may then either actually take such wheat, or arrange with the owner or person having its disposal for delivery.

The compensation is fixed at 5*s*. per bushel f.a.q. delivered at nearest railway station, or not more than one mile therefrom, subject to proper deductions if not so delivered, and also subject to any

increase which may be recommended by the necessary Commodities Commission. Payment is to be made out of Consolidated Revenue after a period of fourteen days from proclamation, during which claims for compensation may be sent in.

In case of dispute, or non-claim, the money may be paid into the Equity Court or the District Court, according to amount, and the Government is thereby discharged. Persons on proving their claims may then get payment out.

The board is to sell and pay net proceeds into Consolidated Revenue.

Contracts made in New South Wales prior to the passing of the Act, so far as relating to sale of New South Wales 1914–15 wheat to be delivered in the said State are avoided so far as not completed by delivery, and contracts or transactions in respect of wheat the subject-matter of such avoided contracts are also avoided, and moneys paid thereunder are to be repaid.

Every contract for the sale of flour made in New South Wales, prior to the passing of the Act, so far as it relates to the sale of flour to be delivered after January 1, 1915, is avoided, and so far as such contracts provide for delivery during December 1914, the purchaser shall not be entitled to require delivery of more than the average monthly deliveries, provided by the contract, or in the absence of any such provision, actually made under it.

A board of five is appointed for the purposes of the Act.

Returns of wheat may be called for from owners and other persons having the disposal of wheat.

The necessary machinery sections are added dealing with powers of the board to compel attendance of witnesses, production of documents, penalties, and the like.

Constitution.—Under ss. 26 and 27 of the Constitution Act, 1902, no person holding an office of profit under the Crown, with certain exceptions, or having a pension, shall be capable of being elected or sitting as a member of Parliament, and the acceptance of any such office or pension avoids his election.

Act No. 33 was passed to meet the case of members who went on active service, and it is provided that nothing in the said section shall extend to any person who has accepted or held or may hereafter accept or hold any office of profit in His Majesty's navy or army.

Motor Tax.—No. 34 provides for the assessment and collection of taxes on motor vehicles, including motor-cars, motor cycles or other vehicle under five tons unladen, propelled wholly or partly by any volatile spirit or by electricity, but not including vehicles used on a railway or tramway.

Taxation.—No. 35 increased the income tax on incomes received during 1914 by 3*d.* in the £.

It also provided for the levying and collection of taxes on motor vehicles at the scale and with the exemptions set out in the schedule.

3. QUEENSLAND.

[*Contributed by* The Hon. Littleton E. Groom *and* J. Walsh, Esq., B.A.]

War Measures.—Several laws were enacted to meet the conditions arising from the war. The Meat Supply for Imperial Uses Act (No. 2) is an Act to "secure supplies of meat for the use of His Majesty's Imperial Government during war and for other purposes." It declared (s. 6) "that all stock and meat in any place in Queensland are, and have become and shall remain subject to this Act, and shall be held for the purposes of, and shall be kept for the disposal of His Majesty's Imperial Government in aid of the supplies for His Majesty's armies in the present war." Upon the making of an order in writing by the Chief Secretary or his Under-Secretary, all stock and meat mentioned in the order become the absolute property of His Majesty, and immediate possession must be given thereof to His Majesty. The title and property of the owners is thereupon changed into a right to receive payment as provided in the Act. All persons whosoever, including owners, consigners, consignees, shippers, vendors, and purchasers are prohibited from selling, disposing of, forwarding, consigning, exporting, delivering, or in any manner whatsoever dealing with any stock or meat (whether the same is or is not actually appropriated to His Majesty by an order made under this Act), except only in pursuance of the directions of the Chief Secretary. Contracts contrary to such prohibition or prejudicing His Majesty's use, control, and disposal

of any stock or meat are declared void. Penalties for violation of the Act are imposed (s. 7). For the purposes of the Act the Governor in Council shall appoint a Board, whose duty is to fix the prices at which stock and meat shall be appropriated and taken by the Chief Secretary under the Act ; and the prices so fixed and no other shall be payable to the respective owners of the stock and meat. Stock or meat sold before the Act shall be paid for by the Chief Secretary at the prices fixed under subsisting contracts (s. 8). Due provision is made for payment. Under s. 12 power is conferred upon the Governor in Council to extend the provisions of the Act to any foodstuffs, commodities, goods, chattels, live stock, or other things. Machinery is provided for the recovery of penalties for offences against the Act.

A second measure passed was the Control of Trade Act (No. 3)—"an act to make provision against undue restriction of the supply of goods or undue raising of the prices of goods during war." The Act is placed under the administration of the Chief Secretary. Under s. 6 the Governor in Council may from time to time by Proclamation declare that any foodstuffs, commodities, goods, chattels, or things whatsoever mentioned in the Proclamation shall be goods subject to the Act. The Governor in Council shall appoint a Board of Control for the purposes of the Act for each of the three Districts, North, Central, and South, into which the State is divided (s. 7). The duties of the Boards are specified (s. 8). Each Board (*a*) shall inquire into and report to the Chief Secretary as to what prices should be the highest selling prices for any goods or kinds of goods under the Act ; (*b*) may in any inquiry or report deal with the prices of any goods or kinds of goods under the Act ; (*c*) may in any report specify different prices for the same goods or kinds of goods having regard to (i) the different qualities thereof, or (ii) the sale or supply thereof wholesale or retail ; or (iii) the sale or supply thereof under differing terms and conditions ; or (iv) any other matter which the Board think fit to consider (s. 8). When a report has been received by the Chief Secretary, he may by order published in the *Gazette* declare that the price or prices specified in any report of a Board for any goods shall for the purposes of the Act be the highest selling price for those goods in the district concerned (s. 9)

Any person selling at or refusing to sell except at prices higher

than those prices declared as above, is guilty of an offence (s. 10). Machinery clauses are enacted to give effect to these provisions.

By the Friendly Societies Act Amendment Act (No. 16) it has been made lawful, upon the trustees of friendly societies being satisfied that any member thereof is unable to pay or secure any moneys due by him owing to service with the troops, or unemployment or lack of means or other sufficient cause, for a society to advance out of the funds of the society such sums as are necessary to meet the obligations of the member. The advance is deemed to be made on personal security, and is a debt due to the society.

The Local Authorities Patriotic Contributions Act (No. 17) authorises and validates contributions from the local fund of a local authority to any patriotic or other public fund established in Queensland in connection with the present war, or the relief or assistance of the officers and soldiers of His Majesty or his Allies or their dependents.

The Elections Act Amendment Act (No. 29) preserves the franchise of those residents of Queensland who are enlisted for active service with His Majesty's Forces during the present war, and provision is made for the exercise of their votes by electors who are on active service.

Agricultural Measures.—The Fertilisers Act (No. 8) repeals the Fertilisers Act of 1905.[1] "Fertiliser" is defined as follows: Any substance or compound containing in appreciable quantity nitrogen, phosphoric acid, or potash, manufactured, produced, or prepared in any manner for fertilising the soil or supplying nutriment to plants; the term, however, does not include farm-yard manure, stable manure, seaweed, crude night soil, crude offal, or any crude refuse which has not been dried or otherwise heated so that decomposition will be arrested until such refuse is applied to the land. No person is allowed to sell fertiliser unless he is licensed as a dealer under the Act (s. 4). It is forfeited when sold by an unlicensed person. A licence is obtained on application to the Secretary for Agriculture, who is given a discretion in the matter. On or before January 31 in each year every dealer is obliged to deliver to an authorised officer a certificate in the prescribed form of the specified ingredients of each brand of fertiliser dealt in by

[1] No. 16 of 1905. See *Legislation of the Empire*, vol. i. p. 535.

him (s. 5). This certificate has to be registered. Upon the sale of any fertiliser the dealer must give the buyer an invoice certificate containing the prescribed particulars. Every such invoice certificate is deemed a representation or warranty by the dealer to the buyer of the truth of the matters certified thereby (s. 6). Every dealer who sells any fertiliser must securely affix conspicuously to each package thereof a plainly printed label clearly and truly certifying certain specified particulars with respect to weight, trade-mark, and the chemical analysis of the contents (s. 7). Penalties are enacted for a breach of the provisions of the Act and machinery provided for its execution.

The Pure Seeds Act of 1913 (No. 30) was passed to regulate the sale of pure seeds for planting or sowing. The Amendment Act of 1914 (No. 10) amends s. 5 by the substitution of a new subsection. Upon the sale of any seeds of the value of not less than 1s. the vendor is required by the principal Act to give an invoice containing the statements required by the Act. The new subsection requires that "every such invoice shall specifically state that the seeds passing on such sale are for planting or sowing, and the kind or kinds of such seeds, and that such seeds contain no greater proportion or amount of foreign ingredients than is prescribed with respect to that kind or kinds of seeds, and, notwithstanding any agreement to the contrary, such invoice when received by the purchaser shall be deemed to be a description of the seeds passing on such sale so as to constitute the transaction a contract for the sale of goods by description within the meaning of the Sale of Goods Act of 1896."

The Agricultural Bank.—An Amendment Act (No. 19) makes several minor amendments in the Principal Act, the Agricultural Bank Act (Consolidated) of 1911.[1] The administration of the Act is transferred from the Secretary of Agriculture to the Secretary for Public Lands. S. 8 introduces new matter by enabling the trustees to carry on insurance business with borrowers for the insurance until the repayment in full of advances, of buildings, and other improvements against fire, storm, tempest, or other disaster.

The Principle of Co-operation.—Two measures have been enacted in furtherance of the principle of co-operative enterprise.

[1] No. 25 of 1911. See Journal, vol. xiii. p. 361.

The Co-operative Agricultural Production Act (No. 36) provides for advances in aid of co-operative enterprise in connection with the manufacture and storage of primary products of agriculture. Primary products are defined as, butter, cheese, milk, bacon, flour, cornflour, cotton, grain, meal, jam, and preserved fruits, and such other products of the soil as the Governor in Council may from time to time declare by Order in Council to be primary products. Any co-operative company, registered under the Companies Acts, may apply to the Minister for advances in aid of the construction of works under the Act. Works include any works or factory for the manufacture or cold storage of primary products and the by-products thereof, together with all machinery and appurtenances used in connection therewith and all tramways leading thereto, and the site of the works and all land used in connection with any such tramway. The application has to be accompanied with specified documents, such as an undertaking to conform to the provisions of the Act, copy of the memorandum and articles of association; maps, plans, particulars of titles, and description (s. 3). The application is referred to a Government valuer (s. 4) and upon his report advances may be made by the Minister out of moneys annually appropriated by Parliament for the purpose.

No advance can be made to any one company to an amount exceeding one-half of the cost of the works nor, unless nor until, one-half of the capital of the company has been actively paid up by the shareholders (s. 6). Provisions are made for the security of the loans and their repayment.

The other Act, the Co-operative Sugar-works Act (No. 34), provides for the establishment and management of co-operative sugar-works. Persons who are the owners or occupiers of cane-lands within a specified locality may make application to the Governor in Council for the construction or purchase of sugar works under the Act in that locality (s. 3). Sugar works are defined as any mill for the extraction and manufacture of sugar and the by-products thereof, together with all machinery, chattels, and appurtenances and tramways and railways, the mill site and all land used in connection with tramways and railways. Specified particulars must be supplied, and the prescribed documents must accompany the application. The application is then submitted to valuers for report (s. 4). The Treasurer may by notification in the *Gazette*

give notice that the memorandum and articles of association of the company have been approved by the Governor in Council, and that it is the intention of the Governor in Council to construct or purchase sugar-works in the locality specified.

Ninety days are then allowed to any owner or occupier of cane-land, *i.e.* land suitable for the growth of sugar-cane in the locality, to come under the scheme and become an original shareholder. A joint stock company may be formed for a sugar-works to be constructed or purchased under the Act, with a capital equal to the cost of construction or purchase of the sugar-works. Ultimately the sugar-works are vested in the company. Until that time large powers are vested in the Corporation; that is to say, "the Corporation of the Treasurer of Queensland created by the Sugar-works Guarantee Act Amendment Act of 1908." When the Governor in Council is satisfied that a company has been duly formed and registered, and one-third of the shares of the company have been issued and allotted to persons who have entered into cane-growing agreements, and the holders have paid in sterling money to the Corporation the full amount of capital represented by such shares, and two-thirds of the shares have been allotted to a trustee of the Corporation, then he may direct and empower the Corporation to construct or purchase the sugar-works, and thereafter manage, maintain, and control them (s. 7). The Governor in Council may also authorise the Treasurer to advance to the Corporation, as an advance to the company, a sum equal to two-thirds part of the cost of the construction or purchase of the sugar-works. The cost of construction must be paid out of the capital moneys of the company, and the sugar-works when constructed, vest in the Corporation. As soon as the Corporation is satisfied that the sugar-works are ready to commence operations, then a certificate must be published in the *Government Gazette*, declaring what is the total capital sum expended in the construction or purchase of the sugar-works (s. 8). A sum equal to two-thirds of the original capital cost of the sugar-works shall be deemed to be a loan by the Treasurer to the company for a period of twenty-one years, and repayable by instalments. Provision is made for repayment (s. 9). After making provision for the payment of the instalments, the company must pay to the Treasurer out of the profits of the sugar-works a sum equal to 4 per cent. upon the amount of capital of the company

subscribed by the original shareholders, being one-third of the capital of the company, and this sum has to be allocated among the original shareholders and credited to them, for the purposes of what is called "share credit." This credit remains until shares equivalent thereto have been transferred by the trustee to the shareholders entitled (s. 10). If the profits in any year are not sufficient to provide for the payment of the annual instalment of interest and repayment, the shareholders are liable to make good the deficiency and the Corporation may levy a rate (s. 12). Provision is made with reference to cane-growing agreements and the terms thereof (s. 14). As soon as the total amount of all moneys due to the Treasurer is paid, the Corporation must transfer the right, title, and interest in the works to the company (s. 20). For each sugar-works a Board of Advice may be appointed.

Compulsory Voting.—The Elections Acts Amendment Act (No. 29) introduces a new principle into electoral law—that of compulsory voting. S. 9 provides that every person entitled to be enrolled and not enrolled shall send in a claim for registration. It is further provided by s. 18 that "it shall be the duty of every elector to record his vote at every election held for the electoral district on the roll of which he is enrolled. But this provision shall not be construed to compel any elector to vote contingently under the provisions in that behalf hereinafter contained." The returning officer has to compile a list of electors who have not voted. To each of these a notice has to be sent. In reply the elector must state the true reason why he failed to vote. The returning officer must, after making all reasonable inquiries, decide whether such reason is a valid and sufficient excuse for such failure to vote. Every elector who fails to vote without a valid and sufficient excuse is liable to a penalty.

Consolidating Acts.—The following Acts consolidated and amended the law previously in existence: the Printers and Newspapers Act (No. 20); the Fish and Oyster Act (No. 23); the Railways Act (No. 24).

The Railless Traction Act (No. 28) authorises the provision and working upon roads of trolley vehicles moved by electrical power transmitted thereto from some external source for the conveyance of passengers and other public traffic. Subject to the Act a local authority, joint local authority, or a company are authorised,

upon obtaining an Order in Council, to construct, maintain, provide work, and run a trolley vehicle service upon any road, and provide and supply electrical energy (s. 3). The vehicle routes must be specified in the Order in Council. The several provisions of the Act specify the rights and obligations in connection with the construction, maintenance, and running of the trams.

Poor Relief.—The Interstate Destitute Persons Relief Act (No. 9) provides for the relief of persons whose relatives, liable to support them, reside in another State of the Commonwealth. The principle underlying the Act is legislation on the part of the several States to enforce in the State where a person is resident obligations of maintenance which that person incurred in another State. Reciprocity is established between States by proclamation. When in another State provisions of an Act substantially similar to those in the Queensland Act have been enacted, the Governor in Council may proclaim certain parts of the Act in force as regards that State (s. 5). Whenever in another State (*a*) (i) any husband leaves his wife or (ii) any parent leaves his or her child under the age of eighteen years, whether legitimate or illegitimate, or (iii) any children the age of twenty-one years leaves his or her parent ; or (iv) any person liable to support or contribute towards the support of another person leaves such other person, in any such case without adequate means of support ; or (v) an order has been made by any justice or justices or by any court not being a court of record, and such order remains unsatisfied wholly or in part; and in any such case (*b*) such husband, parent, child, or person, or the person by such order adjudged to pay or make provision comes to reside either permanently or temporarily in Queensland, any summons for relief or any process to enforce such order granted in such other State may be served in Queensland (s. 6). Whenever in Queensland a person does any act similar to those specified or is similarly adjudged by order to pay, any justice in Queensland may, on application, sign and issue a summons directed to the defaulter who is resident in another State (s. 7). The summons may be served in Queensland or another State. On proof of service the justices may hear and determine the matter (s. 9). Part III. contains provisions for enforcing an order for maintenance made in another State.

Criminal Code.—An Amendment Act (No. 22) further amends the Criminal Code by making provision for the detention and

control of habitual criminals. Persons found guilty of offences against morality, who have been previously convicted on indictment on two occasions of any such offence may be declared by the Judge to be "habitual criminals." So also any person convicted of offences relating to coin, endangering life or health, to stealing, burglary, house-breaking, obtaining property by false pretences, or receiving property stolen or fraudulently obtained, who has been previously convicted on indictment on at least three occasions of certain specified offences, may be declared, as part of the sentence, to be an habitual criminal. Where a person has been previously convicted on indictment on at least two occasions of certain specified offences, and is convicted summarily of any offence punishable by imprisonment for not less than three months, and has also been convicted summarily on at least two occasions of any offence punishable by imprisonment for not less than three months, the Court of Petty Sessions, in addition to imposing a sentence of imprisonment, may order him to be brought before a Judge of the Supreme Court, to be dealt with as an habitual criminal. The same procedure is followed where any person is convicted under the Vagrants Act, and has been previously convicted at least four times under that Act. The Judge may in the above-mentioned case declare the person brought before him to be an "habitual criminal" and direct that, on the expiration of his sentence, he shall be detained in a reformatory prison (s. 3). This section applies as well where the previous convictions took place for similar offences out of Queensland. Power is given to the Governor in Council to establish reformatory prisons (s. 4). Every habitual criminal shall at the expiration of his sentence be detained during His Majesty's pleasure (s. 6). Prisoners must be employed in such labour as is prescribed. Wages according to a prescribed scale are to be credited to an employed prisoner. These are paid towards maintaining his wife and children, if any, during his detention, the balance, if any, being paid to him on his discharge (s. 8). On application made, a Judge of the Supreme Court may make a recommendation on the ground that a person detained has sufficiently reformed or for other sufficient reason he should be discharged and the Governor may thereupon discharge him and may impose conditions on the discharge (s. 9). Under certain circumstances the person discharged may be re-arrested (s. 10).

Family Maintenance.—The Testator's Family Maintenance Act

(No. 26) introduced the principle that a testator's property should be made liable for the maintenance of his family. If any person (hereinafter called "the testator") dies leaving a will, and without making therein adequate provision for the proper maintenance and support of the testator's wife, husband, or children, the Court may order provision to be made out of the testator's estate. The Court may attach conditions to the order or direct that the provision shall consist of a lump sum or a periodical or other payment; or refuse to make an order in favour of any person whose character or conduct is such as, in the opinion of the Court, disentitles him or her to the benefit of an order, or whose circumstances are such as to make such refusal reasonable. The incidence of the payments ordered, unless otherwise directed, falls rateably upon the whole estate. Other provisions of the Act carry out in detail the general principle underlying the measure.

4. SOUTH AUSTRALIA.[1]

[*Contributed by* G. A. YUILL, ESQ., LL.B.]

Acts passed—Public, 35; Private, 1.

Abattoirs.—The Metropolitan Abattoirs Act Further Amendment Act, No. 1171, makes provision for the Treasurer to issue government stock for the purpose of raising money to be lent by the Treasurer to the Abattoirs Board (s. 4).

Under s. 5 the Government may make agreements with the Board as to slaughtering and disposal of carcasses by the Government Produce Department.

Administration and Probate.—No. 1174 contains several amendments to the law relating to administration of the estates of deceased persons mainly in the direction of extending the power of the Public Trustee.

The definition of "estate" in s. 4 of No. 537 of 1891 is extended to include "any money or other property subject to any trust, and received by the Public Trustee under order of the Court."

The definition of "personal representatives" is also extended to "include the Public Trustee when an order has been made

[1] The legislation of the year 1914, being the fourth session of the twenty-first Parliament.

authorising him to administer the estate of any deceased person, notwithstanding that letters of administration may not have been granted to the Public Trustee" (s. 3).

The Public Trustee may be appointed as attorney for an absent executor and apply for probate or letters of administration (s. 7).

The Public Trustee is authorised to invest any moneys belonging to any deceased estate in any investments authorised by the Trustee Act 1893.

With the consent of the Court executors and administrators with or without a will annexed may appoint the Public Trustee the sole executor or administrator respectively.

Trustees may, unless expressly prohibited and notwithstanding terms of trust as to number of trustees, appoint the Public Trustee sole trustee in their place (s. 18).

The Public Trustee may with approval of a Judge make advances for purposes of administration of estate either to beneficiaries or creditors or for expenses of administration (s. 20).

Advances to Settlers.—The Advance to Settlers on Crown Lands Act, No. 1166, is merely a consolidation of the law and is practically a re-enactment of the Advances to Settlers on Crown Lands Act No. 960 of 1908 [1] and amending Acts No. 1052 [2] of 1911 and 1105 of 1912.[3]

Amendments Incorporation.—No. 1157 provides for the Incorporation of Amendments in reprints of Acts. References are to be made in the margin to the enactments by which amendments are made (s. 2).

District Councils.—The District Councils Act, No. 1182, is mainly a consolidation of previous Acts. S. 6 makes provision for the continuance of existing Councils.

Part III. deals with the power of Governor to constitute new districts, and to change the constitution of existing districts.

Part IV. deals with the qualifications for the office of Councillors and Chairman.

The office is open to all ratepayers of full age except Ministers of religion, special magistrates, uncertificated insolvents, and persons holding office at the disposal of the Council or interested in a contract with the Council.

[1] See Journal, vol. x., p. 348.
[2] See Journal, vol. xi. p. 383.
[3] See Journal, vol. xiii. p. 369.

Part VII. makes provision for elections and contains all necessary machinery for taking a ballot.

Under Part XIX grants of money of an amount equal to 5s. in the £ on the amount of general rates declared and actually collected are to be made every year out of the general revenue of the State.

The Act contains all the necessary machinery for declaring and receiving general and special rates (Parts XII., XIII.) and for obtaining loans (Part XX.).

Part XVII. contains general provisions for establishing manufacturing districts and abattoirs and for making and lighting roads and streets.

Harbours.—The Harbours Act (No. 1149) constitutes a corporate body known as "The South Australian Harbours Board" (s. 39), consisting of three members called Harbours Commissioners appointed by the Governor for five years (s. 41). Under Part I. of the Act—

Power is given to the Governor to acquire wharves and water frontages and other properties (s. 8) provided that all wharves within limits of any one harbour are taken simultaneously (s. 9).

Properties may be acquired by agreement with the owner or compulsorily (s. 10), and provision is made for compensation (Part I., Division IV.) to be fixed by three arbitrators, one of whom must be a Judge of the Supreme Court (s. 17). Owners are entitled to retain possession for a period of six months after publication of the proclamation of intention to take over the wharves (s. 25), and to receive interest from the date of possession.

Part II., Division III., vests in the Board all lands and properties of the Crown mentioned in the Act and all harbour lights, buoys, and beacons and all wharves, docks, breakwaters, and other harbour works, and all other property acquired by the Board.

The Governor may also grant or lease the lands acquired under Part I. to the Board.

The Powers and Duties of the Board are set out in Part II., Division IV.

The Board has complete power of control over all harbours (s. 57) and lighthouses (s. 58), and is authorised to carry out necessary harbour works to the value of £5,000 at its own discretion, over £5,000 with the consent of the Minister of the Crown, and over £20,000 with the consent of Parliament (s. 59).

The Board also has power to deepen and dredge near private wharves (s. 60), to light wharves, and to provide life-saving and fire-extinguishing apparatus (s. 64), and to grant leases and licences of shores and seas (s. 67, 68).

By Part II., Division V., functions of the Marine Board under the Marine Board and Navigation Act, 1881, as to pilots and pilotage are transferred to the Board (s. 78), and the power of the Marine Board to make regulations transferred to the Governor (s. 79).

Part II., Division VI., gives power to the Board to remove wrecks, and Division VII. enables the Governor to fix harbour dues, charges, and rates by regulation (s. 84), and the Board is vested with necessary legal machinery for receiving same (s. 91).

The dues and charges, when collected, are paid to the credit of the general Revenue of the State (s. 96).

Moneys for carrying out the purposes of the Act are to be provided by Parliament.

Insolvency.—No. 1162 increases the number of offences for which an insolvent may be imprisoned under s. 175 of the principal Act, No. 385 of 1886.

The following are made offences under the Act:

Failure to make discovery of assets, delivery of property to trustee, or to give up documents in his custody; material omission in statements regarding insolvent's affairs; failure to inform trustee of false debts; false representation by insolvent for obtaining consent of creditors to an agreement; failure to account for loss within twelve months of insolvency of any part of his property (s. 3, I.); concealment of property to value of £10 or concealment of any debt due to or from insolvent. Concealment, mutilation, or falsification of documents, attempting to account for property by fictitious losses or expenses (s. 3, II.).

If insolvent, within six months from filing of petition, obtains property on credit by false representation or fraud, or has obtained property on credit by false pretence of trading, or has contracted any provable debt or obtained from any creditor the forbearance of any provable debt by fraud or false pretence or disposed otherwise than in ordinary way of his trade any property obtained by him on credit or given fraudulent preference to any creditor (s. 3, III.).

If any insolvent within six months of filing of petition has with

intent to diminish the sum available for creditors disposed in any way of any property (s. 3, IV.).

If the insolvent prevents production of any document relating to his property (s. 3, V.).

If any insolvent has carried on trade by means of fictitious capital or at the time of contracting debts had no reasonable expectation (proof whereof shall be on him) of being able to pay the same as well as all his other provable debts, or wilfully omitted to keep books, failed to keep usual books within a period of three years preceding filing of petition, or incurred unjustifiable expense by bringing a frivolous or vexatious action, or put creditors to unnecessary expense by vexatious or frivolous defences to any action for recovery of provable debt, or has concealed property with intent to defraud his creditors within two months after any judgment or order for payment of money has been obtained against him.

If any insolvent after or within six months of filing of petition for adjudication quits or attempts to quit South Australia, taking with him any part of his property to the value of £20 which ought by law to be divided among his creditors, unless the Court is satisfied that the insolvent had no intent to defraud his creditors (s. 3, VII.).

If any insolvent, before his certificate has been awarded, obtains credit to the extent of £20, or trades upon credit under an assumed name or in the name of a firm without disclosing that he is an uncertified insolvent (s. 3, VIII.).

If any insolvent has contributed to his insolvency by rash or hazardous speculations, and by gambling, drunkenness, or extravagance in living (s. 3, IX.).

If any insolvent is privy to an act or omission which, if done or made by himself, would be an offence (s. 3, X.).

The Amending Act to a large extent is an adoption of the legislation regarding offences provided for in the English Act 32 & 33 Vict. 62 and New Zealand Act No. 12 of 1908 (s. 138).

Irrigation and Reclaimed Lands.—No. 1178 is merely a consolidation of previous law contained in Act No. 953 of 1908 as amended by No. 979 of 1909, No. 1032 of 1910, and No. 1108 of 1912.

No. 1179 amends the Renmark Irrigation Trusts Acts.

A Board called the Renmark Allotment Board is composed of three members (s. 5), two of whom are to be nominated by the Trust constituted under the principal Act and a chairman (s. 12)

who must be a member of the Land Board nominated by the Minister of Crown Lands (s. 6).

The Board has power to fix the purchase price or annual rent, to consider, accept, or reject applications for land, and to require attendance of applicants and witnesses (s. 16) and to examine them on oath (s. 17).

Certain land is vested in the Trust for purposes of the Act (s. 20), which land has to be offered for sale by the Trust in blocks approved by the Minister on the recommendation of the Board Trust empowered to grant leases of land to applicants approved by the Board (s. 22).

The Trust are to give notice of land offered for sale or lease, and all applications are to be referred by the Trust to the Board (s. 23).

The Board are to give preference to Renmark settlers, other things being equal (s. 26), and report names of successful applicants to the Trust to be gazetted (s. 27).

Purchase price to be fixed by the Board and agreements to contain a covenant to purchase by half-yearly instalments in thirty years with interest.

Agreements for purchase are liable to forfeiture by the Trust if instalments are in arrear for six months (s. 30).

Leases under s. 22 are to be in a form approved by the Board for a term not exceeding twenty-one years, with a reservation to the Crown of the right to resume without compensation (s. 31), and the rent is subject to revaluation by the Board every seven years.

Lands for Public Purposes.—The Lands for Public Purposes Acquisition Act, No. 1154, gives power to the Governor by proclamation to declare the following to be public purposes: the providing of offices and other buildings for carrying on the government of the State, any undertaking authorised to be carried out by the Government but for which there is no power to acquire land, and any purpose declared to be a public purpose by both Houses of Parliament (s. 4).

The Governor has power to appoint a Promoter of undertakings and holder of lands in respect of any public purpose (s. 5).

The Promoter may acquire lands for a public purpose on direction of the Governor (s. 6).

Certain provisions of the Lands Clauses Consolidation Acts are incorporated (s. 7) and the Promoter of the undertakings is vested with the powers of promoters under the Incorporated Acts (s. 8).

The compensation payable in respect of any land acquired is fixed by arbitrators (s. 9), and in fixing compensation no regard is to be had to enhancement in values caused by the passing of the Act, the taking or acquiring of land under the Act, and the construction of works or undertakings on such land, and any proposal to construct or establish works (s. 10).

When any purpose has been declared a public purpose, the promoter of the undertaking has power to enter on or examine any lands for ascertaining the suitability of the land for such purpose (s. 12), to enter lands adjoining acquired land (s. 13), and to take materials and make roads and cuttings on such adjoining lands (s. 14) for the purpose of carrying out the public purpose. Rent for such occupation and compensation for damage done to such adjoining lands are to be made by the promoter (s. 15). Power is given to the Governor to dispose of land when no longer required (s. 17).

Land Clauses Consolidation.—No. 1163 repeals s. 34 of No. 6 of 1847 dealing with the costs of arbitration, and provides that the costs shall be in the discretion of arbitrators, who may award costs as between solicitor and client.

The decision of the arbitrators as to costs is subject to an appeal to a Judge in Chambers upon summons (s. 3).

Mental Defectives.—No. 1159 extends the law relating to mental defectives. Provision is made for the Public Trustee to administer estates in South Australia of patients in other parts of the Empire.

On obtaining a certificate in writing from administrators of estates of mental defectives in a proclaimed part of the Empire that any mental defective residing in such proclaimed part of the Empire is possessed of real or personal estate in South Australia, and upon being authorised by such administrator to administer such estates in South Australia, the Public Trustee is entitled to exercise powers vested in him by Division II. of Part 5 of the principal Act No. 1122 of 1913 (s. 5) for the administration of estates of mental defectives.

The Public Trustee is authorised to pay over to such administrator all moneys received by him after payment of his charges, and providing for payment of claims of persons resident in South Australia (s. 5).

The Governor, on being satisfied that the laws in force in any

part of the Empire are such as to enable powers to be exercised in that part of the Empire in cases of patients residing in South Australia, substantially similar powers to powers conferred by s. 5 (*supra*) may by proclamation declare that s. 5 shall apply to that part of the Empire (s. 5, sub-s. 1).

Provision is also made for enforcing orders made in Lunacy Courts of other parts of the Empire. Certified copies of such orders on production to the Master of the Supreme Court of South Australia are to be sealed with the seal of the Supreme Court of South Australia (s. 6, sub.-s. 1), and such order shall thereupon have the force and effect of an order of the Supreme Court of South Australia (s. 6, sub.-s. 2).

The Governor, upon being satisfied that provision has been made in other parts of the Empire for the recognition of orders of the Supreme Court of South Australia in its Lunacy jurisdiction may by proclamation declare that s. 6 shall apply with respect to that part of the Empire.

Municipal Corporations.—The Municipal Corporations Act Amendment Act, No. 1183, increases powers to make bye-laws for controlling the speed and route of traffic, street hawking, and the licensing of motor vehicles (s. 36).

S. 18 amends ss. 153, 154 of the principal Act, and makes it necessary for all maps and plans subdividing any land to be sent to the local authority for approval, and then forwarded to the Surveyor-General. The local authority may make objections to plans, in which case the same are to be referred to any Minister, who may confirm or overrule objections.

S. 38 renders it necessary for persons establishing hospitals to give notice to the local authority, who may present a petition to the Governor against the establishment of the proposed hospital.

National Pleasure Resorts.—The Governor is empowered by No. 1173 to grant to the Minister of the Crown any lands belonging to the Crown for the purpose of being used by the public as a pleasure resort, park, or recreation ground. Power is also given to the Minister, with the consent of the Governor, to acquire any other lands in the State for the same purposes. The Minister is created a body corporate for the purposes of the Act (s. 3).

S. 8 provides that all lands vested in the Minister are to be under the control of the Director of Intelligence and Tourist Bureau.

The sale of intoxicating Liquors on any pleasure resort is prohibited (s. 13).

Power is given to the Minister to make the necessary rules and regulations for carrying out the purposes of the Act (s. 21). Certain acts of vandalism are made offences under the Act (s. 14).

Public Charities.—No. 1160 extends the power of leasing lands from twenty-one years to ninety-nine years (s. 3).

Public Supply and Tender.—No. 1161 establishes a Supply and Tender Board consisting of five officers employed in the public service and appointed by the Governor (s. 7) for the purpose of controlling the purchase, custody, and issue of all stores, material, and requisites for the public service and keeping accounts and investigating all contracts in connection therewith (s. 15).

Each member is appointed for one year, with power of reappointment (s. 8).

The Act applies to all stores, material, and requisites for the public service, excepting railway engines and rolling-stock, dredging and pumping plant.

The Act is administered by a Minister of the Crown appointed by the Governor (s. 3).

The Minister appoints a chairman from members of the Board (s. 12), and also a chief storekeeper, who is the chief executive officer of the Board, and entitled *ex officio* to attend all meetings (s. 14).

Vermin.—No. 1181 is a consolidation of the law relating to vermin-proof fencing, and the destruction of vermin. The Act is merely a re-enactment of the previous law as amended by No. 1135 of 1913.

By No. 1172 the rates not fixed by s. 4 of the Wild Dogs Act, 1914, are fixed at 3*d.* per square mile of land, situated in a vermin-fenced district, and a maximum of 1*s.* on other land (s. 3).

Food Supply and the War.—The Prices Regulation Act, 1914, No. 1151, provides for the appointment of a commission to provide against unreasonable increases in the prices of commodities regarded as necessaries of life, and to prevent the withholding of supplies of such commodities by persons in possession thereof.

The Commission is composed of three members appointed by the Governor, one of whom must be a Judge of the Supreme Court or the President of the Industrial Court (s. 3).

The Commission has power to declare any commodity to be a

necessary of life (s. 9) and to fix the maximum prices to be paid in respect thereof, to declare different prices according to the quality, and for different parts of the State, to vary such prices, and to fix prices relating to any standards of measurement, weight, or capacity (s. 10).

Persons in possession of necessaries of life in which they usually trade are liable to penalties or imprisonment if they fail on demand to supply a reasonable quantity at the fixed price (s. 12).

The Commission may issue a forfeiture certificate if any person has necessaries of life in his possession, and has refused to supply the same (s. 13). On receipt of forfeiture certificate, the Minister may order that such necessaries of life be forfeited to the Crown and for the police to take possession (s. 14).

Evidence may be taken by the Commission in public or in private (s. 20), and the Commission is not bound by rules as to procedure or evidence (s. 21).

Necessary power is given to the Commission to require the attendance, and examine witnesses, and for production of books and documents (s. 24).

Drought.—The Drought Relief Act (No. 1165) was passed for the purpose of affording assistance to settlers affected by the drought. The Act is administered by a Minister of the Crown appointed by the Governor.

S. 3 provides that the Minister may supply owners or lessees of land (s. 4) on credit (*a*) with seed-wheat or other commodities, and (*b*) make advances on fallowed land or for agistment of live stock.

The list of commodities supplied is fixed by the Minister, and is made a first charge on the land (s. 10), and has to be repaid within a time fixed by the Act or on alienation (s. 9).

By s. 13 persons wilfully making false statements are guilty of misdemeanour.

Grain and Fodder.—No. 1168 establishes a board called "The Grain and Fodder Board," consisting of three members appointed by the Governor (s. 3). The Board is made a body corporate (s. 4).

The Board is empowered to acquire all grains and fodders within the State of South Australia (s. 11). The Board may acquire the grain or fodder by purchase or may take possession of same with or without consent of owner, or may give notice in writing to the

owner or person having custody thereof of the Board's intention to acquire such grain or fodder, which becomes vested in the Board for purposes of the Act (s. 12).

The price is to be as agreed between the Board and the owner, or at a price to be fixed by the Prices Regulation Commission upon an application by the Board or owner. Such price is to be the market value at the place and time where and when acquired (s. 13).

The Board is to pay persons appearing to be the owners of such grain and fodder, and may deduct amounts due to any person in respect of liens or charges on or in respect of such grain and fodder. In cases of doubt the Board may pay into Court and persons claiming may then make application to the Court by summons for payment (s. 16).

Power is given to the Board to search for grain and fodder (s. 17) and to store and dispose of same in such manner as the Board considers best (s. 18).

Persons subject to any contract to deliver any grain or fodder to another person are discharged from the obligation to deliver under the contract upon the taking of such grains or fodder by the Board, but without prejudice to any claim by such other person to the price paid by the Board for or in respect of such grain or fodder (s. 19).

Foodstuffs.—Act No. 1156 gives power to the Governor to appoint a Commission to report on the distribution, export, and prices of foodstuffs and other commodities, and upon (*a*) the quality and distribution thereof, (*b*) the probable requirements of the people of the State, (*c*) any attempt to raise the price and to engage in speculative dealings (s. 4).

Persons are to supply particulars of commodities held by them to the Commission under penalty of £1,000 (s. 6), and goods are made liable to forfeiture on failure of return or false returns (s. 7).

Mortgage and Purchases Postponement.—No. 1155 extends the time for payment of principal moneys secured by a mortgage (legal or equitable) of land (s. 4) fallen or falling due since June 30, 1914, and of purchase money under an agreement for purchase of land (s. 5) to a date to be fixed by proclamation. Interest is payable during the period of postponement at rate fixed by the instrument, or 5½ per centum per annum, whichever is the higher (s. 7).

The Act operates as a stay of proceedings, but does not otherwise

prejudice the rights of the parties. The period of postponement is not to be taken into account in calculating the time fixed in the Statute of Limitations (s. 9).

Provision is made for cases of hardship by allowing mortgagees to apply to the Court by summons for exemption from provisions of Act (s. 10).

The Act does not apply to mortgages contracted or agreements entered into after the passing of the Act (s. 3).

5. TASMANIA.

Within the calendar year 1914 only fifteen acts, mainly financial or local in scope, received the Royal Assent, but the session was still in progress at its close, and the legislation will receive attention in the next review.

Officers of Parliament.—By the Officers of Parliament Salaries Act (No. 2) the salaries of the President and Chairmen of Committees of the Legislative Council and its Speaker and Chairman of Committees of the House of Assembly are raised by £50 per annum.

Mines.—The first legislation in Parliament due to the war appears to have been an act (No. 7) releasing lessees and licensees from certain covenants in their agreements. By a later Act (No. 12) the payment of mining rents was postponed.

6. VICTORIA.

[*Contributed by* C. J. Zichy-Woinarski, Esq., K.C., *and* W. Harrison Moore, Esq.]

Acts passed: First session (being the fourth session of the twenty-third Parliament of Victoria), 54; Second session (being the first session of the twenty-fourth Parliament of Victoria), 17.

Emergency Legislation.—The first of these Acts is the Price of Goods Act 1914 (No. 2516), under which a Prices Board is established in relation to "any goods used by man for food or drink, and any goods that enter into or are used in the composition or preparation of such food or drink," or any goods named by Proclamation. Prices recommended by the Board become operative as maximum prices when declared by the Governor in Council; and during the war any

person who sells or offers such goods above the declared price is guilty of an offence and liable to a penalty of £500. It is also an offence, similarly punishable, to refuse to sell any goods (*a*) which one is entitled to sell, and (*b*) which are in excess of what are required for the use of oneself and dependents for a period of three months from the date of the refusal.[1]

Under the Foodstuffs and Commodities Act (No. 2517) the Board is required to inquire into stocks of goods under the Price of Goods Act, and as to any speculative dealings therein. Persons having in their possession quantities of these goods in excess of the amount named in the schedule are required to make a return of their holding to the Board. No proceeding under either of these Acts may be taken except with the consent of the Attorney-General. By a subsequent Act (No. 2572) this Act was continued until April 30, 1915.

The Apprentices Act (No. 2540) allows the variation of the determination of Boards in the case of apprentices whose masters may be unable to keep them fully employed during the war.

The War Expenditure and Overdrafts Act (No. 2548) enables a municipality and every other "body of persons corporate or unincorporate" to contribute to any War Fund; and (with a view to the prevention of distress) authorises municipalities to borrow money in excess of the limits imposed by the Local Government Act to be expended on permanent works.

Ministers of the Crown.—No. 2578 (Officials in Parliament Act) repeals the law requiring a responsible Minister to vacate his seat upon appointment to office. The necessity for a person taking office as a salaried Minister of the Crown to vacate his seat and stand for re-election came very prominently into public notice in the year 1913, when practically three ministries were in office within a very short space of time, and this present Act is the result of public opinion as expressed then.

Stamp Duties.—No. 2,575 is a Revenue Act, which increases certain stamp duties on Receipts (on £2 and over) to 2*d.* instead of 1*d.*; on local bills of exchange and promissory notes 1*s.* for every £25 instead of 6*d.*; the *ad valorem* duties on settlements or deeds of gift from £1 to £5 per cent. instead of 10*s.* to £2 10*s.* per cent.;

[1] Some particulars of the steps taken under this Act, as in other States of the Commonwealth under similar Acts, are contained in the *Round Table* (June 1915).

and annual licences to fire, marine, and fidelity guarantee insurance companies £3 per cent. on the gross premium instead of £1 10*s.* per cent.

It also reimposes the duties on foreign and inter-state bills of exchange, whether from within or without Victoria, viz. 6*d.* for every £25 up to £100 and 1*s.* for every £50 thereafter.

Succession Duties.—No. 2,565 continues for the year 1915 the rates at present existing of probate duty chargeable on real and personal property in Victoria of deceased persons, and in addition makes special provision in the case of persons on naval or military service, who may die from injury, accident, or disease while on such service. In these last-mentioned cases no duty is to be payable when the final balance of the estate does not exceed £5,000, and where the final balance exceeds £5,000 no duty is to be payable in respect to the first £5,000. This exemption from duty will only apply to cases where the estate is left to the widow or lineal descendant of the deceased.

Criminal Appeal.—No. 2,564 adapts for Victoria the provisions of 7 Edw. VII. c. 23 with amendments. The Full Court, *i.e.* any three or five Judges of the Supreme Court, is constituted a Court of Criminal Appeal, and it is provided that any Judge before whom a person was tried and convicted may sit on the hearing of an appeal by such person (s. 2).

The Appeal Court is empowered in quashing a conviction to direct a new trial if necessary (s. 4).

The Attorney-General and the Court are given the power to assign to an appellant counsel if it appears desirable so to do in the interest of justice (s. 10).

No provision is made for an official or other shorthand writer to take notes of the evidence and proceedings in the trial Court, but under the general law the Judge of any Court of Trial may require a shorthand writer to be present to take a full note of the evidence and all proceedings; and difficulties may arise upon appeals whenever a Judge's notes are defective in cases where no shorthand writer was present officially at the trial, but the matter is not provided against.

Provision is made, too, by this Act to enable the Attorney-General to refer to the Court of Appeal any petition made to him for the exercise of His Majesty's mercy (s. 19).

The Act also amends in a small but important particular the principal Crimes Act by authorising a chairman of General Sessions to be compelled by the Full Court to state a case for its opinion under the principal Act. Such compulsion could be exercised toward a Supreme Court Judge, but by an anomaly it was not applicable to a chairman of General Sessions, and this is rectified.

Coroners.—No. 2,567 is a short amending Act to enable inquests to be held upon fires which break out in forests. It adds to the words of the principal Act in the section which provides for the coroner holding inquests into the cause and origin of certain fires the words "any firewood made up into bundles, stacks, cords, or loads, or cut up in the manner in which it is usual to cut firewood for burning, or any trees, timber, charcoal, bark, or grass."

Supreme Court Rules.—No. 2,512 confers power on the Judges of the Supreme Court to make rules for giving effect in Victoria to the (Imperial) Foreign Tribunals Evidence Act, 1856, and regulating the procedure thereunder.

Local Government.—No. 2,557 introduces a number of miscellaneous amendments in the principal Act of 1903. Amongst other things, it enables the Government in certain cases to join or sever boroughs and shires of its own motion, and without a petition of ratepayers, and authorises the Minister to make a "call of the whole council" whenever he sees fit to attend a meeting, from which absence without "reasonable excuse to the satisfaction of the Minister" is punished with a penalty of £20, a similar penalty attending the leaving the meeting without permission of the chairman before the conclusion of business. Additional powers to make by-laws include provisions for prohibiting or minimising noises in highways, and particularly extend to the regulation of the brakes that may be used.

Advertisements are brought under control by a power conferred on the Government to prohibit the erection of hoardings in any area on petition from the municipal authority; and with the approval of the Government, the municipality may regulate and prevent the exhibition of advertisements in such manner as to affect injuriously the amenities of a public park or pleasure promenade, or to disfigure the natural beauty of a landscape, and may regulate and control all advertisements on any hoarding, building, fence, rock, cliff, or tree—following and adapting the English Advertisements Regula-

tion Act 1907. In respect to building by-laws, a council may, *inter alia*, prescribe the mining area (including frontage and depth) of land for buildings, require a minimum area of open land for every dwelling-house, regulate the height, means of escape in case of fire, and the ventilation and lighting of buildings, the minimum size of dwelling-rooms or shops for foodstuffs, and prescribe building materials. Apparently, the council may by by-law leave the determination of all such matters in particular cases, and the dispensation with any of the prescribed requirements to itself by resolution, or to any officer named by the council (§ 29 f.). By s. 39 a council may, on petition of a majority of the owners of property in any area, enter into agreements with any body authorised to supply water, gas, or electricity, or to carry off sewage, for the extension of the undertaking of such body in the council's district. By s. 54 a council may close streets or roads to particular traffic during certain seasons without closing the road altogether, on the ground that the road would be seriously injured by such traffic.

" Preferential trade," often adopted as a principle by municipal councils, and persistently urged upon them, has now the sanctity of statutory authority, for s. 80 requires councils, in purchasing or obtaining goods or materials, to give effective and substantial preference to manufactures or products of the Commonwealth, and by s. 81, in case it is impracticable to apply s. 80, similar preference is to be given to the United Kingdom as against foreign countries.

Factories and Shops.—No. 2,558 is an Act amending various provisions of the existing law. The Saturday half-holiday is made universal for shops, but may be altered by the Minister on petition, and there are detailed provisions concerning times of opening and closing in various trades. S. 6 amends s. 12 of the principal Act of 1912, which provides for the secrecy of the record of persons employed in any factory; it is now enacted that, for the purpose of tracing persons who have evaded naval or military training, such records may be inspected annually by the Defence Department of the Commonwealth. Under " Restrictions as to Young Persons and Women," we find that " no female, unless her hair is cut short or securely fixed and confined close to her head by net or otherwise," may work among or near moving machinery (s. 18). In regard to wages conditions, the requirements of technical education are met by s. 40, under which students at the University or students taking

full-day courses at any technical college may work in a factory, shop, or other place for the purpose of acquiring practical skill and knowledge, though they are not paid the rates prescribed by the wages board for that trade. An important alteration of the law is the substitution of a Court of Industrial Appeals, consisting of a President and two members, for the Court consisting of a Judge of the Supreme Court alone. The President is to be a Judge assigned for the duty for such time as the Government thinks fit, and the other two members must be engaged in the trade, and are appointed for the appeal on the nomination of the parties respectively.

Cool Stores for Fruits.—On the petition of the orchardists of a district, the Government by Act No. 2,543 may proclaim it to be a Cool Stores Area, and provide for the establishment of a corporate trust (with members in part nominated by the Government, in part elected on the principle of one orchardist one vote), with power to construct, equip, and manage a cool store, and for that purpose to borrow money, on the security of the trust property, and to levy contributions on the orchardists.

Seed Advances.—No. 2,568 is an Act to assist farmers who have been stricken by the great drought just over to put in crops for the coming year. A sum of £400,000 is the maximum sum to be used for the purpose, and is to be raised by the issue of Government Stock (s. 13). From this fund purchases of seed-wheat, etc., are made, and advances of seed or fodder or both are authorised to be made by way of loan to cultivators of farms. The advance may be made by giving to the cultivators the seed or fodder or both in kind, or by giving him an order from the Minister, authorising some person to supply seed or fodder or both to the value named in the order (s. 3).

The loan is secured by mortgage over the farm or by a duly registered lien on improvements or on the crop of the next ensuing harvest as the Minister may determine (s. 4), and priority is given to such security (s. 5). The loan bears interest at 5 per cent. (s. 9). If the land is already mortgaged, the consent of the mortgagee is first required, and, if he refuses to give his consent, a preferable lien on the crop of the next ensuing harvest is to be the security (s. 6). Special provision is made for cultivators on the share system, to procure advances on the security of a preferable lien on the crop (s. 7).

The Act places a personal liability for the advance upon the

cultivator in addition to the security to be given (s. 9), and protects the crops against distress, and also enables a mortgagee or landlord who may have repaid the amount of the advance to recover it from the cultivator (s. 10). Penalties are provided to secure the minister against fraudulent applications or operations under the Act.

No. 2,574 is a corollary of the Seed Advances Act, and enables a preferable lien on a crop not yet sown to be given and registered as a security.

Transfer of Land.—In 1909, Victoria substantially adopted the English Settled Land Acts, and the present Act, No. 2,529, adds the tenant for life to the list of those persons who may make application to bring land under the Transfer of Land Act.

By Act No. 2,552, a person who claims that he has acquired a title by possession to land under the principal Act, may as a proof thereof obtain an order vesting the land in him, and the procedure applicable in such a case is laid down. The order vests the land in the applicant in fee simple or other the estate acquired free from all encumbrances appearing by the register book to affect the existing title, which have been determined or extinguished by such person, and free from any easement notified as an encumbrance, which has been proved to the satisfaction of the Court of Titles to have been abandoned by evidence of non user for not less than thirty years. The grant of the application may be conditional upon such a contribution to the Assurance Fund as may appear to be a sufficient indemnity by reason of the imperfect nature of the evidence of title. Power is also given for the removal of easements of way from proprietors' titles on proof that they have not been used or enjoyed for thirty years.

Real Property.—During the last few years, a good deal has been done to adopt or adapt for Victoria the principal features of modern English legislation concerning interests in property, though what can be done in this way is of course limited by the prevalence of the Transfer of Land Act, which makes some of the English legislation unnecessary or inapplicable. The present Act, No. 2,532, adopts, amongst others, s. 44 of the Conveyancing Act 1881, ss. 3 and 6 of the Conveyancing Act 1911, and s. 4 of the Trustee Act 1894. It is also provided that unless a contrary intention appears, a devise of real estate for, or a direction to sell, or a specific appropriation of real estate for the payment of debts, funeral or testamentary ex-

penses or legacies, shall of itself be sufficient to exonerate the general personal estate as the fund primarily applicable therefor ; and that, in the case of a gift to more than one individual, jointly or in common, a husband and wife shall not be regarded as one person for the purpose of determining proportionate shares unless the instrument discloses an intention that they shall be so regarded.

Charitable Trusts.—No. 2,544 provides that no trust shall be invalid by reason of the inclusion in the gift of any non-charitable and invalid object as well as some charitable purpose, and the trust shall be so dealt with as if the non-charitable or invalid trust had not been included.

Lunacy.—Parts II. and III. of Act No. 2,539 contain important provisions for facilitating the co-operation of the lunacy jurisdiction in different parts of the Empire. Part II. enables the Master in Lunacy in Victoria to administer, with all the powers of the Victorian Lunacy Acts, the Victorian property, real or personal, of any person in any other British possession who is certified, by the officer there charged with the custody and management of trustee's estates, to be a lunatic patient residing there, and in addition the Master in Lunacy may pay over to such officer any money he may have collected. This part of the Act is brought into operation in the case of any British possession (which does not include the United Kingdom) when the Government is satisfied that substantially similar provisions are made there in respect to lunatics resident in Victoria.

Part III. provides that any declaration or order of any Court in Lunacy in the United Kingdom or a British possession may be sealed in the Supreme Court of Victoria, and shall have the same force and effect as if made by the Supreme Court of Victoria. The master, curator, committee, etc., appointed thereunder shall have the same duties as if he were appointed by the Supreme Court ; but shall have no power or authority until his appointment has been confirmed by the Supreme Court or a judge thereof. This part operates conditionally on the Government being satisfied that adequate provision has been made for the recognition of Victorian orders, and is brought into operation by proclamation.

Further provisions of the Act follow New Zealand legislation in allowing persons to become inmates of mental hospitals or licensed houses as " voluntary boarders," who shall be so received for treatment under the safeguard of lunacy administration, but who shall

not be deemed lunatics. The only element of compulsory detention is that such a person will not be discharged for three days after he has given notice of his intention to leave, such time being fixed for the purpose of ascertaining whether his state of mind is such as to warrant his release.

Carriage of Passengers.—Act No. 2,520 declares null and void any condition in a contract of carriage by water whereby:

(*a*) The owner of any ship or the ship is relieved from liability to passengers for loss or damage arising from the defective condition of the ship or negligence in her management; or

(*b*) The obligation to exercise due diligence and properly man and equip the ship and keep her fit for the carriage of passengers is in any way lessened or weakened. "Contracting out" is declared to be illegal as well as void, and owners are forbidden to insert such illegal conditions in contracts under penalty of £100. The Act applies to contracts made in Victoria for carriage from one place in Victoria to another.

Motor-cars.—No. 2,526 amends the principal Act of 1909 (No. 2,237) in various particulars, and amongst other things enables the Governor in Council to make regulations concerning the kinds of "warning instruments" to be used, and when they may be used. Any person driving a motor-car or cycle who is apparently under the influence of intoxicating liquor may be apprehended without warrant by a member of the police force, and any person under the influence of such liquor while driving a car or cycle is liable to a penalty ranging from £5 to £30 or to imprisonment ranging from fourteen days to three months; his licence is to be cancelled, and not renewed except upon the order of a Court of Petty Sessions.

7. WESTERN AUSTRALIA.

[*Contributed by* F. L. Stow, Esq., LL.D.]

Acts passed—60.

The latest volume of the Western Australian Statutes contains the result of two sessions, the former of which lasted from June 30, 1914, to September 23, 1914, and the latter from December 3, 1914,

till March 31, 1915. Of the Acts passed thirty-three are of purely local or temporary interest, and require no remark. Of the remainder those which received the Royal Assent before the end of the year 1914 are reviewed below.

Taxation.—No. 2 is the annual Land and Income Tax Act; but fixes the tax at a higher rate and on a graduated scale.

The land tax is fixed at 1*d.* in the £ on the unimproved value, and the rate of the income tax starts at 4*d.* in the £ and rises by steps to 1*s.*, the rate varying in accordance with the amount of the income.

Registration of Births, Deaths, and Marriages.—No. 4 amends the Registration of Births, Deaths, and Marriages Act. It provides for the registration of names given to children after the registration of birth. It also enables the Registrar-General to register a death after the time prescribed in the principal Act, and to register an alteration made in the name of a child by adoption under the Adoption of Children Act, 1896.

Control of Prices of Necessaries.—No. 5 (Control of Trade in War-time Act) is intended to prevent an undue enhancement in the prices of the necessaries of life. Further, "corners" in such necessaries are prohibited, and the export beyond the Commonwealth, unless with the consent of the Colonial Treasurer, is likewise forbidden. It will be observed that nothing is said about the export to another State of the Commonwealth. Any such fetter on inter-State commerce would have been beyond the competence of the State Parliament, even if it had been thought desirable.

The Act leaves it to the Governor to declare what shall be deemed necessaries of life, and by proclamations issued on August 14 and 21 the Governor has brought cattle, sheep, flour, wheat, chaff, hay, straw, bran, pollard, and oats within this category.

The machinery for carrying the Act into effect consists of a Royal Commission, which the Governor has, under the power contained in the Act, appointed. This body is charged with the duty of fixing the maximum prices that may be charged for necessaries, and a heavy penalty is imposed upon any person who, having in his control any necessaries of life in excess of his personal requirements, refuses to sell the same on demand and on payment or tender of the maximum price (s. 5). The expression "personal requirements" is defined in the Act, and extends to the requirements of

the person himself, and of his family, dependents, servants, and domestic animals for a period of three months.

On conviction of any person of an offence against s. 5 of the Act the Colonial Treasurer is given power to purchase compulsorily, at the fixed maximum price, any necessaries of life in the possession or power of the offender. Extensive powers of entry and search are given, with a view to prevent any evasion of the Act.

The penalty for an offence against the Act is a fine not exceeding £1,000 or imprisonment for not exceeding twelve months. By s. 10 the onus of proof is thrown on the defendant, the prosecutor's averments being deemed to be proved until disproved.

No. 9 (Foodstuffs Commission Act) is intended to enable the State and Commonwealth Governments to obtain the fullest information regarding the quantity and distribution of foodstuffs and other commodities, the probable requirements of the people of the State in regard thereto, and any attempt by any person to engage in speculative dealing or to raise the price of foodstuffs and other commodities. For these purposes power is given to the Governor to appoint a Commission to make the necessary inquiries.

The expression "foodstuffs and other commodities" means such articles as are specified in the second schedule to the Act; but power is given to the Governor to add to the list.

All persons having any foodstuff or other commodity in excess of the amount specified in the second schedule or, in the case of an article which is not mentioned in such schedule, in excess of the amount fixed by the Governor, must, on demand by the Commission, furnish to the Commission and to any Commission appointed by the Governor-General of the Commonwealth a complete return, showing the quantity of the food-stuff or commodity held by him.

Any person refusing to furnish a return or making a false return will be liable to a penalty not exceeding £1,000, and may, if the Government so demands, be compelled to forfeit the goods.

Royal Commissions.—No. 6 (Royal Commissioners' Powers Act) was passed in order to strengthen the hands of the Royal Commission. Under the Royal Commissioner's Powers Act 1902, if a person summoned as a witness refused to attend or to give evidence, proceedings could be taken against him before justices. The necessity for taking such proceedings against a recalcitrant witness would unduly hamper a Commission charged with the execution of the important powers

given by the Control of Trade in War-time Act. Consequently the Commission is now empowered to order the apprehension of any person declining to obey any summons to attend issued by the Commission, and the person apprehended is to be detained in custody until released by order of the chairman.

The Act also increases the penalty on persons refusing to attend or to give evidence from £100 to £500. A similar penalty may be imposed on any one who injures any person or any employer who dismisses any employee on account of evidence given by him before a Royal Commission.

Friendly Societies.—No. 13 enables Friendly Societies to suspend the liability of necessitous members to make their contributions. The Act will cease to operate on a day fixed by proclamation after the termination of the war.

Workers' Homes.—No. 16 amends the Workers' Homes Act 1911, and enables the Board, in cases of hardship, to extend the due date for payment of moneys by a lessee or mortgagee.

Waters.—No. 19 is the Rights in Water and Irrigation Act, and is the most important measure passed during the session. Certain novel principles are laid down in the Act which are of far-reaching importance. In s. 4 it is provided that the right to the use and flow and to the control of the water at any time in a water-course, or in any lake, lagoon, swamp, or marsh, or in any spring or subterranean source of supply shall, subject to certain restrictions and exceptions, vest in the Crown. Further, s. 5 provides that where a water-course or lake, lagoon, swamp, or marsh forms the boundary of a parcel of land heretofore alienated from the Crown, the bed thereof shall be deemed to have remained the property of the Crown, and a similar provision is made in respect of land hereafter to be alienated.

Subject to the exceptions set out in the Act, no person is to divert or appropriate any water from any water-course, lake, lagoon, swamp, or marsh, and the Act further directs that no right to take and divert water from any water-course or from any lake, lagoon, swamp, or marsh for use on any land adjacent to the bed thereof shall be acquired by any owner of such land, and no right to the permanent diversion or the exclusive use of such water shall be acquired by any person whomsoever by length of use or otherwise than as provided in the Act.

The Act, notwithstanding that it divests owners of certain rights, yet expressly declares that they shall have access to beds of rivers, etc., which by the Act are vested in the Crown, and that they may prevent any persons (not authorised by the Crown) from trespassing thereon, and they may, with the sanction of the Minister administering the Act, take necessary measures to protect their lands from erosion.

The Act also confers on owners and occupiers of land certain riparian rights. These are limited to the right to take water for the domestic and ordinary use of themselves, their families, and servants, and for watering cattle and other stock, but such rights include (in the case of owners of land heretofore alienated) the right to take water for the irrigation of a garden appurtenant to a dwelling and not more than five acres in extent.

Where, before the Act, any person has had a more extensive right of using water the Minister is empowered, subject to certain conditions, to grant a licence permitting the exercise of such right for a further period of ten years.

Artesian wells, too, are the subject of important alterations in the law. By s. 18 it is enacted that no artesian well shall be commenced and no artesian well existing prior to the Act or thereafter constructed shall be enlarged, deepened, or altered except by the Crown or in pursuance of a licence granted under the Act.

The foregoing provisions apply only to irrigation districts constituted under the Act (except the provisions relating to artesian wells) and to rivers, etc., the water of which is required for irrigation under the subsequent provisions of the Act.

It will thus be seen that, with certain exceptions, the control of water that might be useful for irrigation is vested in the Crown in irrigation districts, and the Act makes provision for this water being made available for the benefit of settlers by the Minister or by ocal irrigation bodies.

Power is given to establish irrigation districts, and to appoint boards to undertake and control irrigation works in various districts. The appointment of boards, however, is not compulsory, and, even when established, they may be abolished.

In any district in which no board has been established, or the board whereof has been abolished, the Minister charged with the administration of the Act may exercise the powers of a board.

Even when a board exists the construction of irrigation works may be undertaken by the Minister. In fact, the Act contemplates that such works shall generally be undertaken by the Minister, though provision is made for placing such works under the control of the Board of the District.

After providing for such requirements of riparian owners as they are entitled to have satisfied the remainder of the available water supply in the district may be appropriated by the Minister for irrigation.

The regulation of the supply of water for irrigation purposes is vested in the Board.

Power is given to impose rates for the purpose of defraying the interest and sinking fund on the cost of irrigation works in the district, and providing a fund for depreciating property, and also the expenses of the administration and control of the irrigation works.

Borrowing powers are conferred on the Board, but the ratepayers have a right of vetoing any proposed loan.

Loans may be raised to provide for the construction of works, the payment for works handed over to a board, and other similar purposes.

Liquor Licensing.—No. 22 is a war measure. It amends the Licensing Act, and provides that the Governor may by proclamation restrict or prohibit the sale of liquor in a licensing district or any part thereof. Power is also given to alter the closing hours of licensed houses.

Diseases of Plants.—No. 23 is for the prevention of diseases of plants. It replaces the Insect Pests Act of 1898, and though the powers given are much wider than under the old Act, no new principle is introduced.

In this Act, as in that of 1898, the Governor is empowered to prevent the importation from other countries of fruits and plants likely to introduce any plant disease into the State. This power is largely used against importation from the other States of the Commonwealth, and this derogation from interstate free trade is probably constitutional, notwithstanding the unqualified terms of the freedom of trade section in the Federal Constitution.

The sending of plants from one part of the State to another may also be prohibited.

The widest powers are conferred of ordering owners of orchards to take such steps as may be thought necessary by the authorities to eradicate or prevent the spread of any plant disease. Places may be declared infested and quarantined. Infected things may be destroyed, and the plants in abandoned orchards may be grubbed up.

An extensive power of making regulations is conferred on the Governor, including a power of providing for the registration of all orchards.

Bills of Sale.—No. 24 amends the Bills of Sale Act. Various somewhat minute alterations are made in the principal Act. An optional form of bill of sale is provided, and covenants set out in the schedule are to be implied in all bills of sale unless negatived.

The provision prohibiting a bill of sale for an amount less than £30 is repealed, and various alterations are made regarding securities over crops or relating to agriculture.

Moratorium.—No. 26 is a war measure, and enables the Governor to grant a moratorium.

8. PAPUA.

1913.

Ordinances passed—19.

General Measures.—Several of these amended the general law in several material points and consolidated it. The "Quarantine Ordinance" (No. 6) is divided into several parts dealing with administration, general provisions, quarantine of vessels, persons, and goods, and expenses of quarantine. The measure follows, to some extent, the Commonwealth Quarantine Act, 1908–12. The Administration is placed under a Chief Quarantine Officer. No. 8 requires the registration of printing presses and newspapers. The Act follows closely the Tasmanian legislation.[1] The Evidence and Discovery Ordinance, 1913 (No. 9), repeals the former statutes which were adoptions of the Queensland statutes.[2] The new Act follows generally the line of legislation in Australia and deals with the means of obtaining evidence and discovery; the ex-

[1] 2 Geo. V., No. 14.

[2] The Evidence and Discovery Act of 1867, the amending Act of 1874.

amination of witnesses upon interrogatories; discovery, inspection, and notices to admit and produce documents; the means of proof and admissibility of evidence; judicial notice; documents and proceedings generally and witnesses.

Probate and Administration.—No. 11 amends and consolidates the enactments relating to probate and letters of administration, and to the succession of real estate in cases of intestacy, and for the preservation and management of the estates of deceased persons. The Succession Duties Ordinance, 1913, repeals the previous ordinance which adopted the Queensland Act, "the Succession Duties Act of 1886," and enacts a complete measure. Every administrator has to pay to the Registrar succession duties in accordance with the schedule. The schedule is as follows:

Duties on property derived by any person from a deceased person to be assessed upon the net per cent. value of such property.

Where the net present value derived from the deceased person is less than £100, no duty; £100 and less than £1,000, 2 per cent.; £1,000 and less than £10,000, 3 per cent.; £10,000 and less than £20,000, 4 per cent.; £20,000 or over, 5 per cent.

Provided that where the person taking is the widow, widower, or child of the deceased person, the duty shall be charged at one-half of the foregoing rate.

Duties are levied in accordance with s. 16 at the following scheduled rates:

Duties on property given or accruing to any person under a settlement or deed or gift to be assessed upon the net present value of such property.

Where the net present value of the property is less than £100, no duty; £100 and less than £1,000, 2 per cent.; £1,000 and less than £10,000, 3 per cent.; £10,000 and less than £20,000, 4 per cent.; £20,000 and over, 5 per cent.

Provided that where the person taking the property is a widow, widower, or child of the settler or donor, the duty shall be charged at one-half the foregoing rates.

Real Property.—No. 13 consolidates and amends the law relating to transfer and encumbrance of freehold and other interests in land in the Territory of Papua.

Noxious Plants.—No. 7 is a measure to provide for the prevention and spread of noxious diseases.

Weights and Measures.—No. 10 repeals the ordinances which adopted the Queensland statutes, and makes complete provision for the law on the subject.

Dog.—No. 18 is based upon the West Australian Act.[1]

Papuan Antiquities.—No. 14 is an interesting measure, having as its object the preservation of Papuan antiquities. These include Papuan relics, such articles manufactured with Papuan tools, and according to Papuan methods, and such other things of historical or scientific value or interest, and relating to Papua, as may be prescribed by regulation; but the Act does not include any botanical or mineral collection or specimens. Under s. 3 the Lieutenant-Governor may acquire on behalf of the Territory such Papuan antiquities as he deems expedient, and may provide for the safety and custody of the same.

It is not lawful to remove from the Territory any antiquities without first offering the same for sale at a reasonable price to the Papuan authorities (s. 4). It is the duty of the police and officers of customs to seize any antiquities attempted to be removed from the Territory contrary to the ordinance. Provisions are enacted to enable the object of the Act to be attained.

1914.

Ordinances passed—20.

Native Labour.—A female domestic servant is made liable by No. 2 to a fine not exceeding her pay for fourteen days, for neglecting her work without reasonable cause. If she deserts without reasonable cause the fine may amount to three months' pay, but it cannot be enforced by imprisonment.

Statute Law Revision.—Long schedules to Ordinance No. 3 deal with the Acts of Queensland adopted in the Territory.

Royal Forces.—By an Ordinance (No. 6) of August 7 a body of Armed Constabulary were constituted subject to the "Imperial Army Act" while there is a state of war between the United Kingdom and any other country, and liable for service in Europe.

Lands Requisition.—Ordinance No. 7, in reference to the sale of land, is based upon the Commonwealth Act, No. 13 of 1906.[2]

[1] See *Legislation of the Empire*, vol. ii. p. 190, No. 6 of 1903.

[2] *Ibid.* vol. i. p. 436.

Railways.—The construction, maintenance, and management of Government railways are dealt with by Ordinance No. 8 upon the lines of Western Australia legislation.[1]

Education.—The system of education contained in Ordinance No. 17 is based upon Queensland legislation.[2]

Excise.—The legislation on the subject of excise is made uniform, by Ordinance No. 18, with the Commonwealth Act 2, and the tariff incorporated in No. 19 is similar.[3]

9. NORTHERN TERRITORY

Two Ordinances were passed. The first dealt with brands for stock and to travelling stock, and the second made a small amendment in the Crown Lands Ordinances.

10. NEW ZEALAND.

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Acts passed—Public and General, 76; Local and Personal, 22; Private, 3.

Banking.—S. 2 of the Banking Amendment Act (No. 4) empowers the Governor, subject to certain conditions therein expressed, by proclamation to declare "that the notes payable on demand by any bank therein named, and then issued or thereafter to be issued or reissued within New Zealand under any lawful authority in that behalf, shall during the period limited by the Proclamation be everywhere within New Zealand a good and legal tender of money to the amount therein expressed to be payable."

S. 4 provides a State guarantee of such notes for a period of six months after the expiration of the period fixed by the Proclamation (or successive Proclamations, if more than one).

S. 6 prohibits the export of gold from New Zealand, during the period limited by any Proclamation as aforesaid, except with the consent of the Minister of Finance. By another amending Act

[1] 2 Edw. VII. No. 47 and 3 Edw. VII. No. 23.
[2] No. 9 of 1901.
[3] Cf. Commonwealth Act, No. 8 of 1908.

(No. 5) the provisions of the Customs Act relating to the forfeiture of goods to the Crown are applied to gold exported or attempted to be exported in breach of the provisions of the earlier Act in the last paragraph.

Commerce in Time of War.—The purpose of the Regulation of Trade and Commerce Act (No. 6) is "to make provision for the regulation of trade and commerce in time of war." [1]

Ss. 2–23 enable the Governor, by Order in Council, to fix and determine the maximum price in New Zealand of any class of goods, and from time to time in like manner to revoke any Order in Council or vary any maximum price so fixed and determined. In exercise of this power, the Governor may determine different maximum prices for the same classes of goods in respect of different forms, modes, conditions, or localities of trade, commerce, sale, or supply. The maximum price may be fixed either (*a*) as a specified sum; or (*b*) by reference to the "standard" price, that is to say, the current price at which goods of the same nature and quality were saleable in the same locality on August 1, 1914, if sold in the same quantity and on the same terms as to payment, delivery, and otherwise.

Every person commits an offence under the Act, and is liable to a fine of £500, who sells, or agrees or offers to sell, any goods for a price in excess of the maximum price determined as aforesaid, except in the case of goods intended for export, and not for consumption within New Zealand.

In addition to the pecuniary penalty above referred to, s. 21 renders wholly void as against the buyer every contract of sale made by a seller or his agent in wilful breach of the foregoing provisions, while, on the other hand, the property in the goods is declared to pass to the buyer at the same time and in the same manner as if the contract had been of full force and effect.

S. 24 empowers the Governor in Council to prohibit the exportation during the war of any goods if such prohibition is deemed necessary in the public interest.

S. 25 provides for the suspension or modification during the war of any of the provisions of the labour laws (*e.g.* Industrial Conciliation and Arbitration Act, Factories Act, and Shops and Offices Act).

[1] For other special legislation occasioned by the war see Acts 1914, Nos. 7, 12, 13, 17, 20, 35, 38, 40, 41, 47, 48, 60, 71.

Ss. 26–33 enable the Government, on payment of adequate compensation, to take possession of any goods required for the use of His Majesty during the war.

S. 34 authorises the setting up of a Commission to advise the Government as to the exercise of the foregoing powers.

S. 35 (giving effect in New Zealand to an Imperial Order in Council, relating to trading with the enemy) has been repealed by the Trading with the Enemy Act, 1914 (No. 40).

Mortgages in Time of War.—The Mortgages Extension Act (No. 7) is intended for the relief of mortgagors during the present war, and declares it unlawful for a mortgagee, except with the leave of the Supreme Court, to do any of the following things, viz.:

(1) To call up the principal or any part thereof;
(2) To exercise any power of sale or of entry into possession;
(3) To commence an action for the breach of any covenant or condition expressed or implied in a mortgage (other than an action for breach of the provisions as to payment of interest); or
(4) To commence an action for the recovery of a penal rate of interest.

Where leave of the Court is sought on the ground of the failure of the mortgagor to repay the principal or any part thereof, such leave shall not be granted so long as interest, at the ordinary rate fixed by the mortgage, is paid in accordance with the direction of the Court. Where such leave is sought on any other ground than the above or the non-payment of interest, the Court cannot give leave unless in its opinion the failure of the mortgagor to comply with the covenants and conditions of the mortgage is of such a nature as seriously to endanger the security.

The Act relates to mortgages both of real and of personal estate, and is extended to apply, with the necessary modifications, to agreements for the sale and purchase of land, and to leases containing purchasing clauses.

The Act has been found to operate in a somewhat unexpected manner, the tendency being for investors not to lend money on mortgage at all. An amending Act (No. 17) was accordingly passed enabling the parties to a mortgage to contract themselves out of the provisions of the original Act. By a further amendment (No. 60) the Governor is empowered by Order in Council, to suspend the

principal Act, or to modify any of its provisions in such manner as he thinks fit.

Fruit-preserving Industry.—No. 8 Act amends the Fruit-preserving Industry Act, 1913,[1] by which the Minister of Agriculture was empowered to arrange for advances, not exceeding £3,000 in any one case, to be made by the State for the purpose of assisting in the establishment of fruit-preserving works. It increases the amount that may be advanced to any one person from £3,000 to £9,000.

War Finance.—The Public Revenues Amendment Act (No. 9) makes several technical amendments of the Public Revenues Act, 1910.[2] In addition, s. 8 empowers the Minister of Finance to raise, by way of Treasury Bills, a loan of £2,000,000 towards the expenses incurred in New Zealand for the purposes of the present war.

Civil Service.—The Civil Service Officers' Guarantee Repeal (No. 10) repeals certain provisions of the Civil Service Act, 1908, that required officers of the public service to make good, by way of proportionate contributions from their salaries, the amount of any defalcations of public moneys by fellow-servants.

War Finance of Local Authorities.—The War Contributions Validation (No. 12) Act authorises local authorities and other bodies or persons having restricted powers to contribute out of their funds or in kind towards the expenses of the present war. No. 71 supplements the provisions of the earlier Act (No. 12), and validates contributions made:

(*a*) For the relief of distress occasioned by the war either within the British Empire or within the territory of any of the allied nations; or

(*b*) For any patriotic purpose approved by His Excellency the Governor.

The later Act also enables local authorities to contribute towards the maintenance of the dependents of employees who join any Expeditionary Force for military service beyond New Zealand, or who are called out for active service in New Zealand.

Powers of Trustees during the War.—The Trustee Amendment Act (No. 13) is of temporary duration (expiring on December 31, 1915), and empowers trustees, during the continuance of the war, to

[1] No. 40. See 1913 "Review of Legislation," p. 71.
[2] No. 43 of 1910.

deposit trust moneys at interest with approved savings banks, building societies, investment companies, public companies, or municipal corporations.

Proportional Representation.—No. 18 allows Borough Councils to adopt the system of election by proportional representation at general elections of councillors. The system adopted is that in force in Tasmania.

War Risk Insurance.—No. 20 empowers the Government to grant cover, at rates to be approved by the Governor in Council, against war risk on policies of marine insurance of gold bullion exported from New Zealand to Australia, not exceeding £10,000 in any one vessel. Authority is also given for the Government to insure cargo exported from New Zealand in cases where the value of cargo exported by any one person is so small that the employment of London agents to effect insurance would, in the opinion of the Minister of Internal Affairs, constitute an excessive addition to the cost of insurance. The amount so covered for all insurers in any one vessel is not to exceed £10,000.

Fire Brigades.—S. 2 of the Fire Brigades Amendment Act (No. 24) empowers a Fire Board and a local authority whose district is outside the boundaries of the fire district to enter into an agreement for the protection from fire of property within the district of the local authority. In such a case, the Superintendent and other officers and members of the fire brigade have, within the district of the local authority, the same rights, powers, privileges, and immunities that they have within the fire district.

S. 3 exempts a Fire Board and the officers and members of a fire brigade from liability for damage done to property in the exercise of their duty. All such damage is declared to be damage by fire within the meaning of any policy of fire insurance covering the damaged property.

S. 6 imposes on the owner of premises where a fire occurs, and on the owner of any personal property in such premises, an obligation, on request by any officer or member of the Fire Board, to supply particulars as to all policies of insurance (if any) over such premises or property.

The remaining sections of the Act (ss. 7–11) relate to the constitution of united fire districts, by agreement between the local authorities of two or more contiguous districts. Under the principal

Act every fire district is required to be coterminous with the district of some Borough Council, County Council, Road Board, or Town Board. The amendment permits of any continuous area being constituted a fire district, notwithstanding the fact that such district is not coterminous with the district of any one local authority.

Liquor Licensing Law.—S. 6 of the Licensing Amendment Act (No. 27) prohibits the sale of intoxicating liquor to any person under the age of twenty-one years, except to a person resident on the premises where the liquor is sold, or to a *bona fide* guest or lodger on such premises.

S. 7 provides an altered form of ballot-paper for the national prohibition poll. Under the old form a voter was required to vote either (1) *against* national prohibition, or (2) *for* national prohibition. Under the amended form votes are recorded either (1) for national continuance, or (2) for national prohibition.

S. 10 prohibits (after April 1, 1915) the employment in any bar of a person under twenty-one years of age.

S. 11 provides for the issue of licences for the manufacture of wine in New Zealand, and regulates the sale of such wine. A licensee under this section is prohibited from selling wine in quantities less than two gallons, and also from permitting the consumption of wine on his premises. For the purposes of these provisions "wine" includes any liquor being the produce of fruit grown in New Zealand, and of a strength not exceeding 40 per cent. of proof spirit.

Military Remounts.—No. 28 is intended to encourage the breeding of horses suitable for military purposes by giving to the owners of selected stallions a subsidy not exceeding £150 in any one case.

Local Railways.—The purpose of No. 32 is to permit of the construction of railways by local Railway Boards in districts where the Government is not prepared to undertake the work.

S. 3 provides for the constitution of railway districts by the Governor, on the petition of not less than one-fourth of the ratepayers therein. For each district there is to be a Railway Board of not less than five nor more than nine members to be elected by the ratepayers.

For the purpose of providing funds, the Board of a district is empowered to raise moneys under the Local Bodies' Loans Act, and

is also empowered to levy rates for the purpose of providing for the excess of the estimated expenditure over the estimated revenue in any year.

Every railway to be constructed under the Act has to be specially authorised by the Governor, by Order in Council; and, on the issue of an Order, the Board may enter into the necessary contracts for the construction of the works. The necessary powers for the efficient conduct of the business of the railway, when completed, are conferred upon the Board.

Ss. 78–86 enable the Governor, on giving twelve months' notice in writing of his intention, to purchase any railway undertaking constructed pursuant to the Act, the price to be determined by arbitration.

The provisions of Part VIII of the Public Works Act (relating to the regulation and inspection of railways) are applied to railways constructed under this Act, and certain rights of the Crown—*e.g.* free carriage of mails, use of railway and rolling-stock in time of war or civil commotion—are protected.

Elections.—In addition to various technical amendments of minor importance, the Legislature Amendment Act (No. 33) provides for the following matters:

(1) S. 2 reduces from three months to one month the necessary period of residence in an electoral district before a person who is otherwise qualified becomes entitled to enrolment as an elector for that district.

(2) S. 4 provides for the enrolment as electors of commercial travellers and members of the theatrical profession, who have resided in New Zealand for not less than one year, but may not have resided for one month in any electoral district.

(3) Important amendments are made with respect to the right to vote of seamen who have not a settled residence (as defined) in any electoral district. Seamen who have such a residence vote as electors of the district in which their home is situated, but other seamen vote as follows:

(i) If they are engaged under articles, for the district comprising the port where they signed those articles.

(ii) If they are not engaged at the time of the election, then for the district comprising the port of discharge.

(iii) In certain cases, where any port referred to above is

comprised in more electoral districts than one, the seamen may choose to vote for any one of those districts.

(4) S. 18 allows a person whose name has been struck off the electoral roll in error to vote on making the prescribed declaration before the Deputy Returning Officer.

(5) S. 25 applies the provisions relating to the enrolment of European electors to the enrolment of Maoris under Part IV. of the principal Act.

National Provident Fund.—The main object of an amending Act (No. 34) is to provide a workable scheme for the superannuation of the employees of local authorities, as an alternative to the scheme provided under the Local Authorities Superannuation Act, 1908. It empowers a local authority to become a contributor to the National Provident Fund [1] on behalf of any or all of its employees, and either with or without their consent. In any such case the National Provident Fund Board may waive certain conditions and restrictions applicable in the case of ordinary contributors—for example, provisions as to ages of contributors, rates of contributions, maximum rate of allowances payable, etc. In fact, the Board is authorised to consider on its merits any scheme submitted by an applicant local authority, and to make such terms as it thinks fit as to rates of contribution, and as to allowances and other benefits. It is bound, however, so far as practicable to preserve the same proportion between rates of contribution and value of benefits as exists between the several rates of contribution and the benefits receivable under the principal Act. The Board is obliged, before committing itself to any proposed scheme, to obtain and have regard to actuarial computations as to the sufficiency of the proposed contributions (in conjunction with the State subsidy) to provide the benefits proposed to be conferred.

As between the local authority and its employees, the position is briefly as follows:

(*a*) The local authority may agree with the Board to contribute to the fund, either with or without the consent of its employees.

(*b*) Having become a contributor, it may deduct from the wages or salary of every employee for whom it con-

[1] Established under the National Provident Fund Act, 1910. No. 41. See Journal, vol. xii. p. 440.

tributes a proportion of the contribution due to the fund on behalf of that employee. This proportion may vary in different cases, but must not exceed two-thirds of the total contribution.

(*c*) The balance of the contribution is payable out of the funds of the local authority.

(*d*) If the employee retires from the service of the local authority before becoming entitled to a retiring allowance:

(i) He may withdraw from the fund his proportion of contributions, less benefits actually received by him; or

(ii) He may elect to continue as a personal contributor to the fund.

If he withdraws his contribution from the fund, the local authority may also withdraw its share of contribution; if not, the local authority must leave its contribution with the fund for at least eighteen months. If within that time the employee has not entered the service of the same or another contributing local authority, the moneys may be withdrawn, but if he has entered such service, the moneys remain in the fund. In lieu of exercising its right to withdraw moneys from the fund, the local authority may elect to have them applied on behalf of any other employee or employees.

Corresponding provisions are made enabling private employers, friendly societies, and others to contribute in respect of their members and enabling industrial unions and trade unions to require their members to become contributors.

Another amending Act (No. 35) makes special provisions with respect to those contributors to the National Provident Fund who are members of any of the military Expeditionary Forces from New Zealand during the present war. It provides:

(*a*) That absence from New Zealand shall not disqualify such a member from receiving benefits from the fund;

(*b*) That during absence as a member of an Expeditionary Force the rate of contributions payable by him shall be reduced by one-half.

The Act also authorises the reduction of contributions by con-

tributors who are engaged during the continuance of the war on military duty in New Zealand.

Workers' Dwellings.—The Workers' Dwellings Act of 1910 [1] made provision for the erection by the State of dwellings to be sold or rented to persons whose annual income was not in excess of £175.

No. 36 makes certain amendments of the original scheme of which the most important are the following:

(*a*) Under the principal Act the maximum area of the allotment attached to a worker's dwelling was fixed at half an acre in the case of an urban allotment, an acre in the case of a suburban allotment, and five acres in the case of a rural allotment. Under the amending Act the maximum area in all cases is determined by reference to the unimproved value, which is not to exceed £250.

(*b*) The possible capital value of a worker's dwelling is increased from £600 to £750.

(*c*) In the case of concrete and brick buildings, the period that may be allowed for the payment of purchase-money is increased from 25½ years to 36½ years.

(*d*) S. 14 permits of an arrangement being entered into between the Workers' Dwellings Board, the State Advances Office, and a worker for the purpose of enabling the worker to build a house on a section provided by the Workers' Dwellings Board, part of the cost of the building being provided by the State Advances Office.

War Regulations.—The object of No. 38 is to make more secure the public safety, the defence of New Zealand, and the effective conduct of military or naval operations during the continuance of the present war. For these purposes the Governor in Council is empowered to make regulations prohibiting acts deemed to be dangerous. A penalty of twelve months' imprisonment (in the case of an alien), three months' imprisonment in any other case, and a fine not exceeding £100 may be imposed for the breach of any such regulation. Prosecutions under the Act are to be by way of summary proceedings and not on indictment.

Trading with the Enemy.—Trading with the enemy during the continuance of the present war is declared by No. 40 to be an indictable offence, punishable by:

[1] No. 2 of 1910. See Journal, vol. xii. p. 442.

(*a*) Imprisonment with or without hard labour for a term not exceeding five years; or (*b*) the payment of a fine not exceeding £1,000; or (*c*) both such imprisonment and payment of fine.

In the case of a corporation the maximum fine is fixed at £5,000.

Authority is given to a Magistrate, on information laid on behalf of the Attorney-General, to issue a warrant authorising the entry into and search of premises, the inspection and seizure of books and documents, and the production of information as to business, in any case where any person is suspected of carrying on business contrary to the provisions of the Act.

The expression "trading with the enemy" is declared to mean any act for the time being prohibited by or in pursuance of a certain Proclamation issued by His Majesty on September 9, 1914, and called the Trading with the Enemy Proclamation (No. 2) (as the same is or may hereafter be amended or extended by any subsequent Proclamation).

Kauri-gum Industry.—The main purpose of No. 41 is to enable the Minister of Lands to act as agent for the disposal of kauri-gum on behalf of the gum-diggers during the crisis occasioned by the present war. The Act also provides for the Crown undertaking gum-digging operations in a systematic manner, with a view to the thorough working of the land, and the making of it suitable (after the extraction of the gum) for agricultural and other industries.

In providing for the purchase of gum by the Crown, the Minister is authorised to advance up to one-half of the estimated value, and for that purpose to take, as the basis of computation, the values current before the commencement of the war.

Education Reserves.—S. 3 of an amending Act (No. 45) authorises the sale of upwards of 5 acres of any education reserve for certain educational, religious, charitable, or public purposes; and, further, authorises the sale of any part of an education endowment (without any restriction as to area) if the Land Board and the Minister are both of opinion that the sale is in the best interests of the endowment. The proceeds of every such sale are to be expended in the purchase of other land to be held for the same educational purpose as the land sold.

Under the Education Reserves Amendment Act, 1913, the Governor was empowered to determine certain education leases in

the event of the land being required for purposes of closer settlement. S. 4 of the present amendment confers on the lessee whose lease is so determined the right without competition to acquire one of the subdivisions when the land is being again disposed of.

Friendly Societies.—No. 47 enables friendly societies to make certain concessions (as to payment of dues, etc.) to members of societies joining any Expeditionary Force, and to other members deprived of employment by reason of the war.

Patents, Designs, and Trade-marks.—No. 48 corresponds with a recent enactment of the Parliament of the United Kingdom,[1] and authorises the Governor, by regulations, to avoid or suspend patents or licences where the persons entitled to the benefits therefrom are subjects of a State at war with His Majesty.

The Governor is also authorised to grant to persons other than enemy subjects the right to make, use, exercise, and sell any patented invention or design liable to avoidance or suspension as aforesaid.

Land Laws.—No. 51 amends in various particulars the provisions of the law relating to the disposition and tenure of Crown lands in New Zealand. Its most important provisions are the following:

S. 5 relates to the classification of lands for the purposes of the various existing provisions relating to the limitation of area. It relates only to lands that have not been classified by the Land Board under the Land Act, 1908—that is to say, it relates principally to settlement land, native land, and private European land. Where any such land is required to be classified as first, second, or third class (for example, for the purpose of determining the area that may be acquired in freehold under the provisions of earlier Acts relating to the purchase by tenants of the fee-simple), such land is to be classified as follows:

(*a*) First class, of an unimproved value of £8 per acre or upwards (in lieu of £4 and upwards).

(*b*) Second class, of an unimproved value of between £4 and £8 (in lieu of between £2 and £4).

(*c*) Third class, of an unimproved value of less than £4 (in lieu of £2).

The effect of the alteration will be to reduce land valued at between £4 and £8 an acre from first class to second class, and to reduce land valued at from £2 to £4 from second class to third class.

[1] The Patents, Designs, and Trade-marks Temporary Rules Act, 1914.

The reduction in classification will result in an increase in the area that may be held.

Ss. 17 and 18 relate to the right to acquire the fee-simple conferred by earlier legislation on lessees in perpetuity of ordinary Crown land, and of settlement land. The usual provisions as to the restriction of the area that may be acquired in fee-simple are not appropriately applied in these cases, and lead only to needless complexity of the law. Ss. 17, 18 give to such lessees the right to acquire the whole area comprised in their leases notwithstanding that such area may exceed the usual limit.

S. 22 authorises the Land Board, on the expiry of any lease of a small grazing-run of settlement land, and notwithstanding any provisions as to renewal, to subdivide the land and dispose of it in allotments, the outgoing lessee to have the right to one allotment, and preference in the disposal of the other allotments to be given to his sons over twenty-one years of age, who have resided on the run for seven out of the ten years preceding the expiry of the original lease. Similar provisions with reference to the subdivision of small grazing-runs of ordinary Crown lands were made in 1913.

S. 36 enables the Land Board to dispose of sand-dunes and other comparatively worthless Crown lands to the occupiers of other lands in the vicinity. The purchaser is required to effect certain improvements before the issue of a title, including the planting of grass, lupin, or trees.

S. 37 authorises the exchange of any areas of an education reserve for areas of equal value of ordinary Crown Land or national endowment land.

Ss. 42, 43, 44 make temporary provisions (during the continuance of the war) for (*a*) waiving restrictions as to cropping; (*b*) postponement of payment of rent on pastoral runs, and on certain small grazing-runs.

Wages Protection and Contractors' Liens.—An amending Act (No. 52) is designed to relieve contractors from the onerous conditions to which they have for some time been subject by reason of judicial interpretations of the principal Act.[1] Under s. 59 of that Act an employer or contractor is obliged to retain in his hands one-fourth part of the money payable under the contract to the contractor or subcontractor, until the expiration of thirty-one days after the

[1] 1908, No. 204.

completion of the work. It has been held that the work was not completed until the expiration of the period of maintenance—usually a period of three months after the completion of the main work. The amendment provides that the retention of the one-fourth as before-mentioned shall be for thirty-one days after the completion of the work in the ordinary sense.

Education.—This Act (No. 56) recasts the whole of the law relating to public schools, secondary schools, technical schools, and special schools.

The principal changes introduced are as follows:

Reorganisation of the Department of Education.—The Inspector-General of Schools becomes Director of Education, and the Assistant Inspector-General of Schools becomes Assistant Director. The position of Secretary for Education is abolished. Inspectors of Schools who have hitherto been officers of the several Education Boards become officers of the central department.

Education Districts.—Provision is made for the constitution of not less than seven and not more than nine education districts, to be determined on the report of a special Commission to be set up for the purpose. At present there are thirteen education districts, each under the jurisdiction of an Education Board.

Every education district is divided into urban areas and a rural area. An urban area consists of a borough or a group of boroughs having more than 8,000 inhabitants. Where a majority of the School Committees in an urban area make application to the Education Board of the district to be constituted an urban school district the members of the Board for that urban area are to be elected on the municipal franchise on the same day as the election of Borough Councillors—that is, the last Wednesday in April in every second year. The rural area of an education district is divided into three wards. The members for each ward of the rural area and for all urban areas other than urban-school districts are, as now, to be elected by the members of the several School Committees. The number of members of an Education Board for the rural area is six—two for each ward. The number of members for each urban area is two for each sixty thousand, or part of sixty thousand, inhabitants.

Council of Education.—A Council of Education is established whose duty is to report to the Minister:

(*a*) Upon educational methods or developments in national

education which in its opinion it is desirable to introduce into New Zealand.

(*b*) Upon any matters concerning the provision of facilities for education in the Dominion or in any district thereof, and upon the co-ordination of the work carried on by the various bodies controlling education.

(*c*) Upon any other matters in connection with education referred to it by the Minister.

To obviate the necessity for frequent meetings of the Council, the Minister is given power to constitute from time to time District Advisory Committees to afford assistance and advice with regard to matters concerning one district only.

Election of School Committees.—Members of School Committees formerly held office for one year, and were elected at meetings of householders held in April.

Under the Act the members of the Committee for each urban school district are to be elected on the municipal franchise, and are to hold office for two years. In all other cases school committees continue to be elected by the householders, and are to hold office for one year.

Staffs and Salaries in Public Schools.—The Act provides for a liberal increase of salaries, and also for the increase of the teaching staff.

Scholarships.—There are two systems of school scholarships now in existence—namely, the Junior National Scholarships and the Education Board Scholarships. The Junior National Scholarships are tenable for three years, and may be extended to a fourth year, and are fixed in value. The Education Board Scholarships are divided into Junior and Senior, each series being generally for two years; they vary considerably in value in the different education districts. The Act provides for one system of scholarships, to be called Junior and Senior National Scholarships, each tenable for not more than three years; but where the holder of a Junior Scholarship afterwards becomes a Senior Scholarship holder the joint term cannot exceed five years. The scholarship entitles the holder to free tuition at a secondary school, and also to a monetary payment sufficient to cover ordinary living expenses.

Iron and Steel Industries.—No. 58 authorises the payment out of the Consolidated Fund of bounties in respect of the manufacture in

New Zealand during the next ten years of iron and steel from iron-ore or iron-sand produced in New Zealand. The rate of bounty is fixed at 12*s.* a ton in respect of pig-iron, puddled bar-iron, and steel produced from puddled bar-iron; and 24*s.* a ton in respect of steel produced from molten metal direct from the furnace. The total amount authorised to be paid is £150,000.

Legislative Council.—No. 59 provides for an elective instead of an appointed Legislative Council. For the purposes of the Act New Zealand is divided into four electoral divisions—two in the North and two in the South Island. At the first election (to be held simultaneously with the first general election of members of the House of Representatives held after January 1, 1916), seven members of the Council are to be elected for each of the North Island electoral divisions and five for each of the South Island divisions. At subsequent elections forty members in all are to be elected, and (unless the alterations in boundaries made by the Representation Commissioners necessitate an alteration) twenty-two members are to be elected for the North Island and eighteen for the South Island.

Members of the Legislative Council now in office remain in office until the expiry of the term for which they were appointed. In the future only Maori members may be appointed.

Councillors elected under this Act will continue to hold office until the dissolution of Parliament, which takes place after the expiration of five years from the date of their election.

Elections are to be conducted on the proportional representation system. The system adopted is that which has been in force for some time in Tasmania.

Ss. 5–9 define the powers of the Legislative Council and the House of Representatives respectively as to the initiation of legislation and other matters.

Coal-mines.—No. 61 makes important amendments for the purpose of ensuring the safety and well-being of miners. In particular provision is made with respect to: (*a*) official inquiries in case of accident; (*b*) ventilation in mines; (*c*) prohibiting use of electricity in certain cases; (*d*) withdrawal of men from dangerous localities; (*e*) prescribing the use of safety-lamps where deemed necessary; (*f*) examinations of mines by persons appointed for the purpose by the workmen; (*g*) provision for bath-houses, with hot and cold water supply, for use of workmen; (*h*) constitution of committees

(known as Additional Rules Committees) consisting of a Warden or Magistrate, with representatives of the Mine-manager and men respectively, to frame additional rules for the regulation of particular mines; and (*i*) power to Inspector of Mines to order cessation of work where, in his opinion, there is any immediate danger to life.

Gold-mines.—No. 62 makes various rules for the better and safer working of gold-mines.

S. 14 empowers the workmen in any mine to appoint two persons, with authority to make an inspection of every part of the mine and of its machinery and working once in every month, and with further authority to make such an inspection at any reasonable time on receipt of a notice in the prescribed form that, in the opinion of two or more of the workmen, the mine is dangerous to life.

S. 15 enables an Inspector of Mines summarily to stop the work in any mine in case of danger to life.

S. 17 makes provision for the holding of official inquiries as to accidents, before a Warden and two assessors to be appointed by him; one assessor is to be the holder of a first-class mine-manager's certificate, and the other is to be a workman selected by a society of the workers employed in the mining industry.

Legislature.—No. 65 provides for the disqualification of members of either House of Parliament who are proved to the satisfaction of a Parliamentary Committee to have acted as agents for commission or other reward on the sale to or acquisition by the Crown of any private land.

New Zealand University.—The principal amendment of the law effected by No. 68 is the constitution, in connection with the New Zealand University, of a Board of Studies, with power (1) to make recommendations to the Senate as to the appointment of examiners, and as to degrees, diplomas, scholarships, prizes, courses of study, and examinations, and (2) to receive recommendations as to any of those matters from the Professorial Boards of the several University Colleges. The Senate is also empowered to delegate to the Board of Studies certain of its powers as to drawing up courses of study, conducting examinations, appointing examiners, etc.

Provision is also made for the establishment of University National Scholarships, University bursaries, National Research Scholarships, and other scholarships.

Fruit Exports.—The Orchard and Garden Diseases Amendment Act (No. 69) enables the Governor by regulation to provide for the cooling or other treatment of fruit prior to export, and also for the inspection, grading, packing, and stamping of fruit intended for export.

Medical Practitioners.—Act No. 74 provides much more effective machinery than has formerly been available with respect to the registration and control of medical practitioners. It provides for the setting up of a Board of seven members, one of whom is the Inspector-General of Hospitals for the time being, and the others medical practitioners appointed by the Governor. The Board considers all applications for enrolment, and has power to direct the removal from the register of the names of practitioners who have left the country without any intention of returning, and the names of persons who cannot be found on due inquiry being made. It may also take proceedings for the removal by order of the Supreme Court of the names of practitioners who are guilty of gross misconduct in their professional capacity.

11. FIJI.

[*Contributed by* T. D. H. Brun, Esq.]

Ordinances passed—32.

Opium.—No. 1 forbids the importation into the Colony of prepared opium and the cultivation of the opium poppy, and places restrictions upon the sale of raw opium within the Colony.

The Ordinance was passed to give effect to the measures decided upon in the International Opium Convention signed at The Hague on January 23, 1912.

Ejectment.—No. 6 gives Commissioners of the Supreme Court power to entertain and determine suits in ejectment for non-payment of rent if the annual value of or rent payable for the lands, tenements, or hereditaments involved does not exceed £50, but provides that this power shall not extend to any action in which the title to corporeal or incorporeal hereditaments shall come in question.

Labourers.—No. 7 provides for the transport by rail of labourers employed on plantations.

Widows' and Orphans' Pensions.—No. 8 provides for the granting

of pensions to the widows and children of officers employed in the service of the Government of the Colony. The Ordinance extends to officers employed in the Western Pacific Service, that is, the Gilbert and Ellice Islands and the Solomon Islands.

Solicitors.—No. 11 exempts the Crown Solicitor of the Colony (who was appointed at the end of 1913) from taking out a practising certificate.

Criminal Procedure.—No. 19 exempts certain classes of persons from serving as assessors.

Assessors sit in the Supreme Court as the jury in criminal cases where the accused or the person against whom the crime has been committed is a native of the Colony or an Indian.

Bank Notes.—No. 20 provides that certain bank notes may be proclaimed legal tender, and that the redemption thereof may be suspended for a certain period. This Ordinance was necessitated by the shortage of gold owing to the European war.

Roads. Consolidating Ordinance (No. 21) places all the roads within the Colony (except roads within the townships of Suva and Levuka) under the control of the Commissioner of Works. Any schemes put forward by the Commissioner for the construction of new roads must be submitted to a Board, in the Ordinance designated the Central Road Board, for their recommendation and approval, and, when so approved, such schemes are subject to confirmation by the Legislative Council.

Copyright.—No. 22 extends to the Colony the provisions of the Copyright Act, 1911, with regard to summary remedies for the infringement of copyright. The rest of the Act had previously been proclaimed to be in force in the Colony.

Trading with the Enemy.—No. 23 prohibits trading with the enemy, and provides a fine or imprisonment or both for a breach of its provisions.

Criminal Law.—No. 25 imposes a term of imprisonment upon any parent or person having the custody, charge, or care of a minor under the age of sixteen years, who sells such minor for the purpose of prostitution. A similar penalty is imposed in the case of any person buying a minor under the age of sixteen years for the purpose of prostitution.

Holidays.—No. 27 declares certain days to be holidays for Indian Immigrants on estates in the Colony.

Suva.—No. 29 empowers the Governor to direct the filling up of any area of land within the town of Suva. The filling up is to be done by the Commissioner of Works, and the cost of such filling up is to be paid by the owner of the land. By means of this Ordinance it is hoped that a great improvement will be effected in the aspect of the town of Suva.

Defence Force.—No. 30 provides for the establishment of a Defence Force in Fiji, numbering not less than four hundred members, composed of mounted infantry and infantry. The Governor may declare the minimum strength of the Force in respect of any district, and, if such strength is not forthcoming, compulsory service may be resorted to. Any male who is a British subject of European descent is liable to compulsory service. The Governor may appoint such gentlemen as he may think fit to be officers of the Defence Force.

Leper.—No. 26 makes it incumbent upon every person residing in a house, who knows or suspects that any inmate is a leper, and upon every person in whose employ a leper may be and upon every person who knows or suspects that any person residing in the same district is a leper, to give notice thereof to the authorities, and imposes a fine of £10 for the omission to give such notice.

12. WESTERN PACIFIC.

[*Contributed by* T. D. H. Brun, Esq.]

King's Regulations—10.

Copyright.—Regulation No. 1 brings into force in the Solomon and Gilbert Islands Protectorates certain sections of the Copyright Act, 1911.

Companies.—Regulation No. 2, amended by No. 7, deals with the registration of companies within the British Solomon Islands Protectorate, and Regulation No. 10 is similar in respect to the Gilbert and Ellice Islands Protectorate.

Land Transfer.—Regulation No. 3 sets out the manner in which land in the British Solomon Islands may be dealt with.

Commissions of Inquiry.—Regulation No. 4 provides for inquiries being held in the British Solomon Islands and the Gilbert and Ellice

Island Protectorates into matters affecting the public welfare, and sets out the procedure to be followed in holding such inquiries.

Wild Birds' Protection.—Regulation No. 6 makes provision for the protection of certain wild birds in the Protectorates of the British Solomon Islands and the Gilbert and Ellice Islands.

V. SOUTH AFRICA.

1. UNION OF SOUTH AFRICA.

[*Contributed by* E. L. Matthews, Esq., K.C., C.M.G.]

Acts passed—40.

The legislation of the Union Parliament in 1914 is contained in a volume of smaller dimensions than those of any volume of any previous year. Two sessions were held: the ordinary session was opened on January 30, and was prorogued on July 7; a special session was summoned on September 9 to pass measures necessitated by war conditions, and was prorogued a few days later.

Special Legislation due to Industrial Disturbances.—The period of the first two months of the ordinary session was entirely spent in dealing with matters arising out of the industrial disturbances on the Witwatersrand Gold Fields in July 1913, and out of the strike on the railways in January 1914, which culminated in a general strike of skilled workmen in the Transvaal and Natal. The proclamation by the Government of Martial Law, during the last-mentioned month, over a considerable area of the Union, and the measures taken under its administration, necessitated the introduction of an Indemnity Bill. This measure, known as the Indemnity and Undesirables Special Deportation Act (No. 1), became law on March 23, and (with the exception of certain financial and appropriation Acts giving effect to votes on account) occupied the attention of Parliament up to that date, to the exclusion of everything else. This Act is in the form of previous Indemnity Acts passed in South Africa, and, in addition, it contains a clause validating the deportation of certain persons who had been prominent during the disturbances and the strike, and declaring them to be prohibited immigrants.

The strike upon the railways was the cause of the introduction of another special Act, viz. Act No. 7 of 1914. All the railways are Government railways, and the conditions of service under the Railways and Harbours Department are laid down by Act No. 28 of 1912. That Act (*inter alia*) subjects to criminal penalties and renders liable to dismissal and forfeiture of pension rights, railway servants who, not being duly discharged, desert, or refuse to serve, or absent themselves from service without lawful cause or reasonable excuse. The large majority of the strikers had of course brought themselves within the terms of this provision. On the other hand, other railway servants had refused to join the strikers. Legislation was necessitated for two purposes: (1) to provide for the grant of special privileges to those who had refused to join the strikers; (2) to provide for the readmission of those strikers who had, in accordance with a Government Notice, returned to work before a certain day, and for their reinstatement in their pension privileges.

The remainder of the work of the ordinary session may be classified under three headings: (1) industrial matters; (2) financial matters; (3) miscellaneous matters. It will be convenient first to dispose of the statutes which fall under the third heading.

Cruelty to Animals.—The Act for the prevention of cruelty to animals is No. 8 of 1914. It was introduced as a public measure, but by a private member, and embodies the recommendations of the local society. It repeals laws which were severally in force in the four Provinces of the Union, but re-enacted them with some modifications. It extends the definition of cruelty to include the administration to animals of poisonous or injurious drugs, and the subjecting of animals to operations carried on without due care or humanity. It further confers upon any court which convicts an offender the power to deprive him of the ownership or care of the animal the subject of the charge, to order the destruction of such animal, or to award damages summarily and without further proceedings against the offender (where he is not the owner), in favour of the owner. It authorises the police to destroy animals which are in a diseased or unfit physical condition. It also recognises the Society for the Prevention of Cruelty to Animals as a private prosecutor in cases under the Act—a somewhat important matter

in a country where almost all prosecutions are at the public instance, and a special *fiat* of the Attorney-General has to be procured before a private prosecution can be instituted.

Justices of the Peace.—The Act relating to Justices of the Peace and Commissioners of Oaths is No. 16 of 1914. Prior to the Act there existed in each Province (1) Justices of the Peace with no judicial functions, but with power to issue warrants of arrest, to administer oaths on affidavit and with minor administrative functions exercisable under various statutes; (2) Field Cornets with minor administrative functions conferred by various statutes. Both the office of Justice of the Peace and the office of Field Cornet are old. In Cape Colony the office of Justice of the Peace dates from an Ordinance of 1827, while the office of Field Cornet dates from a time prior to the British occupation in 1806. Under the Dutch Republics both offices existed, though the Field Cornet was, as he had originally been in Cape Colony, mainly a military officer. The office has been recognised, under the South Africa Defence Act, 1912, and the regulations made under it, as entirely a military one. The new Act of 1914 combines the offices of Justice of the Peace and Field Cornet under the title of Justice of the Peace, limits the number who may be appointed in each ward of a magisterial district, and confers upon the holders of the office all the powers and functions which under laws in force at the commencement of the Act were exercisable either by a Field Cornet or by a Justice of the Peace. Existing holders of the commission of the peace retain their titles and functions, but, as they die off, new justices will be appointed, but only in terms of the new Act. Certain officials of the police forces are made *ex-officio* Justices of the Peace in order that they may issue warrants of arrest and search-warrants.

A new office of Commissioner of Oaths is created, and the holders of that Commission will exercise those powers as to the administration of oaths on affidavit, and taking of solemn and attested declarations, that were formerly exercisable by Justices of the Peace. Certain Government officials, according to a scheduled list, are made *ex-officio* Commissioners of Oaths.

Statistics.—The Statistics Act is No. 38 of 1914. It contains provisions for collecting statistics relating to agriculture, and to industrial, commercial, shipping, fishing and other business undertakings, and enables the officers charged with the administration

of the Act to exercise compulsory powers in the execution of their duties. The withholding of the information required by them is penalised. The Act is, in form, similar to a Census Act.

Criminal Procedure.—The Criminal Justice Administration Act is No. 40 of 1914. Its objects are similar to those of the Acts for the United Kingdom of the same year, but it covers much less ground. Some of its provisions have been modelled upon the English Act, though the language used in it is necessarily different, owing to the variation in local circumstances and in criminal procedure. In the legislation of every Colony now included in the Union, as well as in Union legislation, the practice has been to make imprisonment the only alternative to the payment of a fine, even in the most trivial and venial offences. In other words, no machinery existed for enforcing execution of the amount payable as a fine in each case. The effect of this was that a large number of persons who were in no sense criminals were not only liable to detention in prison, but actually served sentences of imprisonment. This was particularly the case in regard to the less civilised and less educated members of the native races; with them imprisonment is not necessarily a deterrent, for it does not involve ignominy. It is obvious that those who allowed themselves thus to become familiarised with the idea of detention in a prison may tend to become actual criminals after their discharge.

The Act provides alternative methods, not only of enforcing payment of pecuniary penalties, but also enables persons convicted of minor offences to be dealt with without suffering imprisonment or any form of detention. Also where the fine which may be imposed is £5 or less the offender may, before appearance in court to answer the charge, sign and deliver to an official a document admitting his guilt and deposit the maximum amount of the fine or give security for its payment. This will relieve him of an appearance in court; but the document, when recorded, will be regarded as evidence of his conviction. Further, the Court is vested with a discretion, in regard to such offences, to postpone the passing of sentence on the offender, and may release him on recognisances, or it may pass sentence, but suspend its operation on conditions as to good conduct, or compensation for pecuniary loss to the complainant, or it may order payment of the fine, and enforce it by seizure of moneys found on the offender, or by requiring the offender's employer to

deduct it from the offender's wages. The last remedy, however, is only allowed with the offender's own consent.

The Act also extends to the whole Union, with modifications, the provisions of certain provincial laws in force in the Transvaal as to dealing with first offenders who are found guilty of more serious crimes.

Indians.—The Indians' Relief Act, 1914, which is No. 22 of 1914, gives effect to the recommendations of a judicial commission of inquiry, which was appointed after the Indian riots in Natal in October and November, 1913, to inquire into the administration of certain laws specially affecting Indians. That administration had been the cause of dissatisfaction amongst the Indian community. The commission made fourteen recommendations, but five of them only necessitated legislation. The first recommendation, by the deletion of certain words from the Immigrants' Regulation Act, 1913, will enable an Indian, married in accordance with the rites of a religion by the tenets whereof polygamy is recognised, to introduce into the Union one wife as well as her minor children by him, provided the Indian has in the Union no other wife. Another recommendation of the commission to which effect is given is as follows:

An Indian man and an Indian woman may, on a joint application to a magistrate or marriage officer, and on complying with certain prescribed formalities, obtain registration of such a union between them as is *de facto* a monogamous union, and such registration will constitute a valid and binding marriage between them with all the incidents thereof, and will be recognised in the Union as such, notwithstanding that, by the tenets of the religion which they profess, polygamous marriages are recognised.

The third recommendation of the Commission to which effect is given is a provision for the appointment of Indian priests as marriage officers under the marriage laws of the several provinces of the Union. So far as Cape Colony is concerned this had been possible, as regards the Mohammedan religion, under Act No. 1 of 1860, while Law No. 19 of 1891 of Natal contained a similar provision. Under the new Act any Indian priest may be appointed a marriage officer for the purpose of the marriage laws of any province of the Union, and a marriage solemnised by him will, if solemnised in accordance with the rites and formularies of his religion and

without any prescribed statutory words signifying the binding nature of the ceremony, be recognised as valid.

Another provision provides for the repeal of that section of the Natal Indian Immigration Laws which imposed an annual licence of £3 on Indians who, introduced as indentured labourers, failed to reindenture at the termination of their contracts.

These are the chief provisions of the Act, though there are others of less importance to which attention need not be specially directed.

Civil Service.—The Public Service and Pensions Amendment Act is No. 39 of 1914, and varies the principal Act[1] in respect of the following matters:

It takes away from the Public Service Commission the duty of making recommendations as to the control, reorganisation, and re-adjustment of departments, or as to the transfer of officers from one post to another, otherwise than on promotion, and leaves to that body the duty only of recommending persons for appointment or promotion in the Public Service and of recommending increments of salary. The Act also postpones the date of holding the first promotion examination, an examination the passing of which is a necessary qualification for promotion to the higher administrative offices, while officers who were appointed prior to August 1912 may be promoted without passing that examination.

Industrial Matters.—Three Acts which may be classified under this heading were passed, viz.: the Workmen's Wages Protection Act, the Workmen's Compensation Act, and the Riotous Assemblies and Criminal Law Amendment Act.

In July 1913, after the termination of the miners' strike upon the Witwatersrand Gold Fields, a deputation of the representatives of the trade unions met the Government, and requested that certain measures should be introduced for the redress of grievances from which it was stated that the wage-earning part of the community suffered. Among these measures were:

(1) One for better securing to workmen the payment of their wages.
(2) A Workmen's Compensation Act for the whole Union.
(3) A repeal of the law relating to public gatherings, the law under which the riots of July 4 and 5, 1913, had been suppressed with much bloodshed.

[1] No. 29 of 1912.

The Government promised to introduce a Workmen's Wages Protection Act; a Workmen's Compensation Act; and a Riot Act.

Wages Protection.—The Workmen's Wages Protection Act is No. 15 of 1914. The common law of South Africa recognises something in the nature of a tacit hypothec for the price of labour expended by a workman upon any article made or repaired by him. But the *jus retentionis* of the Roman Dutch law is hardly the same as the English common law lien upon goods belonging to certain classes of debtors. In the Union also, under the insolvency laws and the companies' laws, workmen obtain a preference—limited as to period—for wages due to them, over other creditors of an insolvent estate or company. In framing the new measure the provisions of similar acts in force in some of the States of the Australian Commonwealth and in the Dominion of New Zealand were considered. The Act in its final form follows the principles of an Act of Western Australia—that is to say, it is based upon the garnishee principle, whereby a judgment creditor attaches money due to a debtor from a third person. That principle is in conformity with the law and practice of South Africa. The procedure under the Act is extremely simple. A workman is enabled to obtain a first charge for his wages due in respect of any work, by serving a notice of attachment upon the person on whose behalf his employer has undertaken to perform that work. That person is called in the Act "the principal." The notice may be served upon the principal as soon as the wages have become due and have been demanded from the employer. The principal must, when service of the notice is effected, retain out of the moneys which he owes to the employer the amount mentioned in the notice, but that amount is limited to £25 or one month's wages, whichever is the less. The attachment thus created lasts, unless previously withdrawn, until the Magistrate's Court makes an order for payment of the wages, or in the alternative the principal may pay the amount attached into Court. The attachment lapses if the workman does not within two months obtain, by action, judgment for the amount of his wages. If judgment is obtained against the employer, the Court may order the principal to pay to the workman the amount for which judgment is given. The principal must always retain out of the moneys which he owes to the employer a sum sufficient to pay all wages due or to accrue due from that employer to his workmen

on the particular piece of work which the employer has undertaken to perform for the principal. The workman is by the Act given the same rights against a contractor who has sublet his contract to a sub-contractor as he possesses against a principal.

All the workmen in the service of one employer may combine together to serve one joint notice of attachment; and may also join their actions against the employer or the principal.

The only other provision of the Act to which attention need be drawn is one taken from the New Zealand Act of 1908. It enables workmen to demand payment of their wages at intervals of not more than one week. The custom of South Africa—at any rate, in the inland parts—has been that workmen's wages are payable monthly.

Workmen's Compensation.—The Workmen's Compensation Act is No. 25 of 1914. In Cape Colony there has been a Workmen's Compensation Act since 1905; in the Transvaal since 1907. In Natal there has been on the statute book an Employers' Liability Act since 1896. In the Orange Free State there has been no statute law specially regulating compensation or damages for injuries suffered by workmen in the course of their employment. The Railway Department has since Act No. 28 of 1912 been empowered under section *seventy-seven* thereof, to compensate its employees, or the relatives of its deceased employees, under the provisions of the Transvaal Act, notwithstanding that the accident giving rise to the compensation may have happened in Natal or the Orange Free State.

It may be convenient to state shortly what is the Roman Dutch common law. As under the English common law, the rights of action of a workman or of the dependents of a deceased workman against an employer are based upon a breach of duty by the employer. Unless, therefore, the plaintiff can prove negligence on the part of the employer or of a person for whose acts or default the employer is responsible he cannot at common law recover damages. Contributory negligence and acquiescence are also defences open to the employer. But the Roman Dutch common law differs from that of England in one important respect, that the doctrine of common employment as formerly laid down by the English Courts is not recognised. If, therefore, a Workmen's Compensation Act did not exist, the South African workman would at common law be in a

more advantageous position, in an action against his employer based on negligence, than the English workman was at common law before the Employers' Liability Acts and the Workmen's Compensation Acts.

Coming now to the provisions of the new Act, it may be stated that, in form and arrangement, and so far as local circumstances allow, the language of the English Workmen's Compensation Act, 1906, has been followed. If the decisions of the House of Lords and the English, Scotch, and Irish Courts have not removed all the difficulties, they have at least indicated some of them, and these the new Act endeavours to avoid. But, as regards principles, the new Act follows the Transvaal Act of 1907, which in turn was based upon the Act of 1905 of Cape Colony. There are, however, certain new features, which may be summarised as follows:

1. There is no colour bar. Europeans, natives, and coloured persons are all regarded as workmen for the purposes of the Act, with this exception, that native labourers on the mines and in factories still derive their right to compensation from the Native Labour Regulation Act, 1911; and this right is enforced by a simple form of procedure taken on their behalf by the Government official appointed for their protection. Under the Transvaal Act of 1907, white persons only were recognised as workmen. In Cape Colony there was no colour bar. The Cape principle has therefore been adopted throughout the Union.
2. The new Act applies only in a limited degree to employment in agriculture, *i.e.* where such employment is in connection with any engine driven or machine worked by mechanical power. In Cape Colony, under the Act of 1905, employment in agriculture was excluded entirely. In the Transvaal it was included, but it must be remembered that, owing to the colour bar, few workmen employed in agriculture in the Transvaal could derive any rights under the Transvaal Act.
3. Though, generally speaking, contracting out of the Act is forbidden as under the Cape and Transvaal Acts, a person who is medically certified to be liable, by reason of old age or serious physical infirmity, to meet with an accident

or to sustain serious injury if employed as a workman, is allowed to contract with his employer that the latter shall be liable to pay him compensation on a lower scale than is prescribed by the Act, provided that such lower scale is not less than one-half of the prescribed scale.

4. Though a magistrate (acting not as a court but in a quasi-judicial capacity) determines questions in dispute, he may nominate medical arbitrators when requested, and a medical or surgical question may be submitted to those arbitrators in such a manner that their decision thereon is binding on the parties.
5. A workman's right to compensation is suspended if he refuses to submit to medical examination when required by his employer at reasonable intervals, and that right may be forfeited entirely if he has unreasonably refused to submit to medical or surgical treatment, and his injury is aggravated or his death is caused thereby. The precedent for this was the New Zealand Act of 1908.
6. By allowing payment into Court, the legislature has made some attempt (s. 27 *et seq.*) to ensure that the workman, in case of permanent incapacity (total or partial), and his dependents in the case of his death, shall receive the full amount of compensation without a considerable proportion going, as the result of a bargain, to his attorneys. Under s. 19 (6) an attorney's bill of costs as between him and his client may be subjected to a close scrutiny on taxation. The precedent for this also was the New Zealand Act, 1908.
7. A full right of appeal to the provincial divisions of the Supreme Court is given to both parties—even on the grounds of excessive or inadequate compensation. The Act will be administered in some parts of the Union by magistrates, who have hitherto had little experience in dealing with claims of the nature dealt with by the Act. An appeal lies ultimately to the Appellate Division, but by the special leave only of that division.
8. The scales of compensation, as set out in the first schedule to the Act, are the Transvaal scales which, owing to the

rate of wages prevalent in that province, are high. The scales, however, are maximum scales, and in the case of temporary incapacity the amount of compensation is limited to £3 per week after three months have expired from the date of the accident.

9. The right to proceed against the principal instead of against the employer is allowed, and for this purpose the terms of s. 37 of the Act are almost *verbatim* those of s. 4 of the English Act, 1906.

10. A right given by the Transvaal Act to the workman to proceed either at common law or under the Act is retained subject to the duty cast upon the workman of making his election, and subject also to his inability to recover both at common law and under the Act.

11. The Act binds the Crown and applies to workmen in its employment, except that members of His Majesty's regular naval and military forces do not fall within the definition of workmen. Union Civil Servants do fall under the Act, but consideration has to be given, in assessing compensation to them, to the fact that they may be deriving pensions under the Public Service and Pensions Acts from the same circumstances as give rise to their claims.

Riotous Assemblies.—As already indicated, the serious riots which took place on the Witwatersrand in July 1913 were suppressed by the use of Law No. 6 of 1894. The law had its origin in the early days of the reform movement in Johannesburg, and though it has been utilised on more than one occasion since the British annexation in 1900, few people realised that it was still upon the statute-book. Under this law the right of holding public meetings in halls or buildings was recognised, provided such meetings were not contrary to public order—a term which is defined. The law, however, forbade the holding of a public meeting in the open air, unless the permission of the Government or the prescribed local authority had been obtained. The prescribed authority was the resident (*i.e.* stipendiary) magistrate. Meetings held without such permission were in terms of the law liable to be dispersed by the police, as well as meetings whereby public order is disturbed. If, after a certain statutory warning had been given

three times, the meeting did not disperse, the police or the military might use force and so disperse it.

Every meeting therefore in the open air was *prima facie* illegal and conveners and participants in such a meeting were, unless permission was obtained, liable to the severe penalties prescribed by the law. It is hardly necessary to say that the law was rarely enforced, though, as pointed out above, it had not been quite a dead letter. In addition, there is no doubt that, under the Roman Dutch common law, all public meetings held without the consent of the authorities are unlawful, but no attempt has ever been made in modern times to enforce the common law anywhere in South Africa. But with regard to the dispersal of gatherings which have become riotous or which threaten to destroy or endanger life or property, the Roman Dutch law is identical with the English common law as summarised by Lord Bowen and Lord Haldane in their report upon the Featherstone riots in 1893. And, just as in England, the reading of the proclamation under the Riot Act is not an indispensable preliminary to the dispersal of a riotous or dangerous mob, so the uttering of any particular formula in South Africa is unnecessary for the dispersal of such a mob by armed force or by the use of lethal weapons.

Such was the state of the law when the riots of 1913 occurred, and when the new Act was passed in the following year. Law No. 6 of 1894 is repealed, together with so much of the common law as renders illegal any gathering of persons in the open air, without the consent of the authorities. Power is given to any resident (*i.e.* stipendiary) magistrate specially authorised by the Minister of Justice, to prohibit the assembly of any public gathering in a public place, if he apprehends that the public peace will be endangered thereby. Further, he may, under like authority, cause access to public places to be barred and closed to the public in order to prevent any such gathering from assembling. Before so acting the magistrate must publicly notify the prohibition or the closing.

To convene, or to preside at, or to address a prohibited gathering is made punishable by imprisonment without the option of a fine, unless the accused satisfies the Court that he had no knowledge of the prohibition. The publication of notices convening a gathering which has been so prohibited is unlawful, but the penalties are less

severe. Similarly punishable is the presence of persons in places closed by the magistrate to the public.

The provisions as to the dispersal of riotous gatherings, as to the circumstances in which force may be used, as to the degree of force that may be used, and as to the use of lethal weapons merely state the common law of South Africa and the English common law as summarised by Lord Bowen and Lord Haldane in their report upon the Featherstone riots. It will be remembered that those eminent lawyers recommended that "it would be proper and useful to consolidate and codify the law as to the suppression of riot with the object of making its provisions generally and definitely known and of removing some misconceptions which are a source of public danger."

It was with that view alone that the Union Parliament enacted chapter I. of the Riotous Assemblies Act, 1914.

Chapter II. of the Act, which amends the criminal law in certain respects, contains provisions almost identical with those of sections *four*, *five*, and *seven* of the English Conspiracy and Law of Property Act, 1875. But, as regards section *seven* of that Act, the amendment thereto contained in the English Trade Disputes Act, 1906, finds no place in the Union Act.

The events of June and July, 1913, on the Witwatersrand, as described by witnesses on oath before the Judicial Commission appointed to report on the disturbances and riots, would appear to render some such provisions necessary. What is called "peaceful picketing" has therefore not been legalised, and the Union Parliament, in re-enacting for the Union the legislation on the lines of the English Act of 1875, followed precedents of South Australia in 1912 and New Zealand in 1913. On the other hand, these provisions may be equally applied against employers who attempt to intimidate their workmen.

Minor amendments of the criminal law have also been enacted to enable the possession and use of explosives to be more adequately controlled in times of public emergency.

There are three other provisions of this Act to which attention may shortly be drawn:

1. The constitution of a special Criminal Court of three Judges in place of a jury to try charges of high treason, sedition, public violence (*geweld*), and offences under Chapter II.,

or incitements or attempts to commit any such crime or offence, whenever in the opinion of the Provincial Attorney-General the ends of justice are likely to be defeated if the accused were tried before a jury. This provision was used for the cases of leaders of the rebellion early in 1915 in the Union.

2. The repeal of those provisions of Ordinances of 1902 of the Transvaal and the Orange Free State which created and defined statutory offences relating to seditious acts, words, and conduct. So far as the crime of sedition is concerned, the Roman Dutch common law is sufficient for all requirements. The provisions of these Ordinances had been based on the provisions of the English law relative to seditious libels. The Ordinances had conferred upon the Executive arbitrary powers in relation to the arrest, and the detention for three weeks without access to the Courts, of persons suspected of treason or sedition. The Ordinance had never been taken advantage of in the Orange Free State, nor, until the strike leaders were arrested and detained in January 1914, in the Transvaal.
3. The power conferred upon the Executive, as an administrative act, of deporting from the Union persons found guilty by a superior Court of high treason, sedition, or public violence, or of a conspiracy or incitement to commit any of those crimes.

Financial Measures.—Three financial measures were passed during the ordinary session of 1914. These were the Customs Tariff Act (No. 26 of 1914); the Income Tax Act (No. 28 of 1914) and the Matches Duty Act (No. 13 of 1914).

Customs Tariff.—The Customs Tariff Act is a consolidating measure prescribing the rates of customs duties for the whole Union. In no part of South Africa included in the Union had a complete customs tariff been submitted in detail to any legislature, with full opportunities for discussion and criticism, since the Cape Act of 1888. The reason for this was that some years prior to the South African War a customs convention had been entered into between Cape Colony, Natal, and the Orange Free State Republic, whereby duties on goods imported into those Colonies or that

Republic were to be levied in accordance with the terms of the convention. The convention was renewed from time to time. The coastal colonies acted for the Republic in collecting the duties on goods the destination whereof was in the Republic. The South African Republic was never a party to any such convention; it had its own customs tariff, and such goods as were imported into it through the coastal colonies were subjected to a transit duty of 3 per cent. *ad valorem.*

Within twelve months after the termination of the war a conference of the Governments of the four colonies met at Bloemfontein under the presidency of Lord Milner, and on behalf of each Colonial Government a customs convention was signed. Southern Rhodesia and the Protectorates also became parties to it.

Since 1903, therefore, there has been a uniform customs tariff throughout British South Africa with certain unimportant variations. That tariff came up for revision in 1906 at another Inter-Colonial Conference, and again in 1908. On each occasion it was slightly modified. The difficulties which became evident at the later conference in adjusting the relative industrial and commercial interests of the four colonies was one of the immediate causes of the assembly of the South African Convention which drafted the Act of Union.

The revised tariff of 1908 was in force throughout British South Africa till 1914. Agreements and conventions existing at the date of Union (May 31, 1910) were by s. 148 of the South Africa Act declared to remain in force; and by s. 135 of the same Act the laws of the several Provinces continued in force until altered or repealed by the Union Parliament. Among these were the several colonial statutes which ratified and confirmed the customs conventions. It was the practice, after each inter-colonial customs conference at which a convention had been signed on behalf of each Government, for such Government to submit to the colonial legislature the necessary bill to give effect to the convention. Such bills were invariably passed by the Parliament concerned, without alteration.

One of the first administrative acts of the Union Government after it assumed office on May 31, 1910, was to appoint a commission to inquire and report (*inter alia*) as to a suitable customs tariff for the Union. The new Act in some respects gives effect to, but in

other respects ignores, the recommendations of that Commission. Financial considerations, however, formed the basis of the tariff prescribed by the new Act. Additional revenue had to be raised during the financial year 1914–15 to meet an anticipated deficit. The net additional amount which it was expected would be raised by the alterations in the tariff was £170,000. The new tariff was published on May 1, 1914, by notice of a resolution in the House of Assembly. It therefore, in terms of s. 19 of the Customs Management Act, 1913, took effect as regards increases of duty on that day, though the Act did not pass through all its stages till July 3. No useful purpose would be served by analysing in detail the tariff in this review. In some cases the increases were in the nature of protective duties, and in other cases, where duties have been decreased upon raw material, the effect will be to assist the local manufacturer or producer. The larger and more important increases, however (*e.g.* on gold and silver, plate and jewellery, and on clothing), are solely for revenue purposes.

Attention, however, may be drawn to the following provisions:

1. The continuance of the rebates upon goods grown, produced, or manufactured in the United Kingdom. These rebates had been provided for in every Customs Convention since 1903. It was estimated that the total amount rebated under this arrangement has averaged in recent years £600,000 per annum.
2. The power conferred upon the Government of granting rebates in respect of goods which are grown, produced, or manufactured in any British possession in which an equivalent rebate is allowed reciprocally on goods imported thereto from the Union.
3. The power conferred upon the Government of imposing a special or "dumping" duty on goods if the export or actual selling price to an importer in the Union is less than the true current value of the same goods when sold for home consumption in the country from which they were exported. Under this provision a countervailing duty may be imposed on goods in respect of which a bounty is granted in the country of origin. This was one of the recommendations of the Commission

referred to above. The actual form of the clause is taken from the Canadian Customs laws.

4. The power conferred upon the Government to enter into an agreement with the Government of any territory in British South Africa as to the admission to that territory, free of duty, of goods which are grown, produced, or manufactured in the Union; and *vice versa*; and as to the reciprocal collection of duty on goods passing through the Union or the territory (as the case may be) and destined for the territory of the other party to the agreement. This enabled existing arrangements with Southern Rhodesia and the Protectorates to be renewed as and when they expire, or new arrangements to be made.

Pre-existing tariffs and the laws governing them were repealed by this Act.

Income-tax.—During certain years which immediately preceded the establishment of Union, an income tax was leviable in Cape Colony and Natal. In the case of each Colony the statute under which the tax was levied was of annual duration only. In Natal the income-tax was in force for one year only (June 1908—July 1909), and the statute was definitely repealed by Act 25 of 1910 (Natal). The Income-tax Acts of Cape Colony expired by effluxion of time, and the Union Parliament did not renew them. In its first session, however (by Act No. 6 of 1910), it imposed a tax on the profits of mining: 10 per cent. in the case of gold and diamonds, and a graduated tax on the profits of mining for copper, iron, tin, coal, and base metals or minerals. This was an extension to the Union of the principles of the Profits Tax (Gold Mining) Proclamation, 1902, of the Transvaal, issued by the Crown Colony Government immediately after the termination of the South African War.

The new Union Income-tax Act embodied some of the financial proposals of the Government for meeting the anticipated deficit for the financial year 1914–15. It was expected that the yield from the tax would be £450,000. As a matter of fact, it yielded a larger sum.

The Union Act was drafted in terms similar to Act No. 36 of 1904 of Cape Colony as amended by Act No. 21 of 1908. The rate and incidence of the tax were, however, different in every respect.

Under the Union Act income-tax is leviable on all incomes which exceed £1,000 per annum, and which during the twelve months ended June 30, 1914, accrued from Union sources, wherever the taxpayer resides or carries on business.

From each income liable to the tax £1,000 is to be deducted, and the amount over and above that sum is to be regarded as the taxable amount. The tax has been so graduated that on an income of £1,001, the taxable amount is £1, and on that sum of £1 the rate was sixpence. As the taxable amount increases, the rate of the tax rises by $\frac{1}{2000}$th part of a penny for each one pound of the taxable amount until the taxable amount reaches £24,000. When it reaches or exceeds that sum the rate of tax will be 1*s.* and 6*d.* in the £. The charging clause of the Act was so drafted as to operate for one year only. It has since been re-enacted with modifications providing for an increased tax, also for one year only.

The incomes of mining companies chargeable with the tax leviable under the Profits Tax Act of 1910 are exempt from the income-tax.

Various abatements and exemptions are provided, which are not of sufficient interest to be discussed in this review.

Duty on Matches.—No. 13 provides for an excise duty of 6*d.* per gross on boxes of matches manufactured in the Union, where not more than one hundred matches are contained in each box, with an increase proportionate to the number in a box over and above one hundred. To ensure a due collection of the duty, matches can only be manufactured on premises licensed by the excise authorities. The duty is payable quarterly by the licensee, who must make periodical returns of his output. A customs duty at the same rate as the excise duty is chargeable on matches which, being manufactured in territories the governments whereof have entered into customs agreements with the Union, are imported into the Union. This taxation, though imposed in order to assist in making up the anticipated deficit for the financial year 1914–15, is regarded as likely to be permanent.

Special Session.

Acts passed—4

Of the four Acts passed during the special session of 1914, one appropriates additional moneys out of loan funds (£2,000,000)

towards the conduct of military operations, measures to be taken for the security of the Union, and generally for all expenses arising out of the existence of a state of war.

Another authorises the extension of a Union railway for a distance of 150 miles to a point near to the border of German South-west Africa.

A third Act was the Currency Act, which authorised the Government to take steps to protect or increase the currency of the Union and to declare that bank-notes of certain scheduled banks should be legal tender, and might be guaranteed by the Government. The obligation imposed by the ordinary banking laws upon each scheduled bank to maintain a reserve in specie against its bank-note issue is suspended for so long as the bank-notes are allowed to be regarded as legal tender and guaranteed by the Government. It has not been necessary to put any of the provisions of this Act into operation, and its provisions ceased to be of force and effect after June 30, 1915.

The only remaining Act is the Public Welfare and Moratorium Act. This Act enables the Government, whenever, during the existence of a state of war, it becomes necessary or expedient to take special precautions for the maintenance of public order or to provide for public safety, to put the following provisions into operation in any district of the Union:

Those provisions are:

(1) A power conferred on the Government of regulating the prices of foodstuffs and other necessaries, of requiring any person to declare the amount thereof in his possession, and of expropriating such stuffs, if they are unreasonably withheld, or of taking possession of them on terms to be fixed by arbitration. Power is also conferred upon the Government of regulating or restricting the sale, supply, or possession of intoxicating liquor and of regulating the hours during which licensed premises may be open. The Government may further prohibit or restrict the publication in any form of matter calculated to spread false intelligence or create alarm or excite public feeling, or of matter relating to precautions which are being taken in the interests of public safety or the public welfare.

(2) A power is conferred upon the Government of prohibiting

the export of any class of goods during any period prescribed by it.

These provisions have been declared in force throughout the Union, and their contravention is punishable by fine and imprisonment.

The only other provision of this Act to which attention need be drawn is that dealing with the *moratorium*. Under this provision a defendant in any civil proceeding for the enforcement of a claim arising out of an obligation contracted, or liability incurred, prior to August 4, 1914, may, if he satisfy the Court that his inability to satisfy the claim or fulfil the obligation is the result, direct or indirect, of a state of war, obtain an extension of time for fulfilling the obligation or satisfying the liability or an order that execution against him be stayed, for periods and on terms to be fixed by the Court.

Any such person may, of his own motion, apply to the Court to have these provisions applied to him, even though no proceedings are being brought against him.

These provisions, however, do not apply to obligations of the Government, or any municipal authority, or to wages, salary, taxes, maritime freight, or to money on deposit or on current account with any bank, or to claims for compensation by workmen under the Workmen's Compensation Act.

By this Act also all civil legal remedies of any nature against a member of His Majesty's forces or a member of the Union defence forces, who is on active service, are suspended during the period of such active service and for three months thereafter.

2. THE CAPE OF GOOD HOPE.

[*Contributed by* G. M. SWIFT, ESQ.]

Ordinances passed—19.

Horse-racing and Betting.—No. 8 and the succeeding (Motor-car) Ordinance were passed in the previous year before the proper steps had been taken under the Union Financial Relations Act to delegate to the Provincial Council the power to legislate. They were accordingly re-enacted in precisely similar terms. It is interesting to note that the provision of the Ordinance prohibiting betting upon a race-course through the agency of book-makers has been held by the Appeal Court (reversing the decision of the

Provincial Division) to be *ultra vires* the powers conferred by the words "regulation of horse-racing and betting."

Motor-cars.—For the reason given above an Ordinance passed in the previous year was re-enacted by No. 9.

Municipal.—The three municipalities of East London, King Williamstown, and Queenstown had at the time of the passing of the general Municipal Ordinance of 1912 elected to remain subject to their own existing special statutes. Having expressed a desire now to be brought under the general law, three Ordinances (Nos. 2, 3, and 18) were passed with that object, each, however, containing certain special provisions to meet local requirements.

Museums.—Provision is made by No. 6 for the establishment of the trustees of any public museum (except the South African Museum) as a corporate body with the powers and duties necessary for the management and control of the institution.

Trading Licences.—The object of Ordinance No. 19, which repealed and re-enacted, with amendments, an Act of the Cape Parliament of 1906, was to place the control of licences to trade in the hands of local authorities. In effect it provides that in future, subject to existing rights, no person shall be entitled to obtain a licence to trade as a shopkeeper, or as a hawker, unless such person has first obtained a certificate from the local authority within whose area of jurisdiction he desires to trade. Provision is also made for the early closing of shops.

Valuation.—Ordinance No. 7 effected a radical change in the prevailing system of land valuations. The general design is to take the valuation of immovable property out of the control of local authorities, and to place it in the hands of a Government department. The system adopted is that in force in New Zealand. The working of the Ordinance is under the charge of a Director of Valuations, who is given very wide discretionary powers. The actual work of valuing is done by valuers appointed by the Director from a panel chosen locally. The whole Province (including the Native Territories) is divided up into districts. The revision of the valuation roll, when completed, is in the hands of a Valuation Court, consisting of nominees of the local authorities and of the Government. The decision of the Valuation Court is final, except upon points of law. Elaborate provision is made for the guidance of the valuers and the Valuation Court.

Miscellaneous.—Under this head fall Ordinances to prevent the extraction of gas from a meter by fraudulent means; to facilitate the granting of loans to Hospital Boards; to amend the general Municipal law; to extend the tenure of office of Divisional Councillors; and to reduce the amount payable for a game licence.

3. NATAL.

[*Contributed by* F. S. Tatham, Esq., K.C.]

Ordinances passed—15.

Financial.—Legislation affecting the setting aside of money for Provincial expenditure is not dealt with in this Review.

Highways.—S. 7 of the Natal Law, No. 13, 1865, provides that a vehicle drawn by more than two oxen shall, when meeting on the road a vehicle drawn by horses, stop until the horse vehicle shall have passed, unless the vehicle drawn by oxen shall have a person actually leading the foremost oxen. Ordinance 3 extends this provision so as to include horses, mules, and donkeys not controlled by reins, under the word "oxen."

Fishing.—S. 11 of Act 31, 1906, prohibits the use of nets, except in the open sea. Ordinance 4 repeals that section, and prohibits the use of nets other than those used for the capture of shrimps and prawns in waters other than the open sea, without the consent of the Administrator.

Plant Protection.—Ordinance 5 prohibits the destruction of indigenous plants, contained in the Schedule, and consisting of Ferns, Tree Ferns, Cycads, Palms, Orchids, Hilton Daisies, Blue Water Lily, Chinese Lantern Lily, Superb Lily, Amaryllids, and Natal Ginger. The prohibition does not apply to plants cultivated in gardens or on private lands, if destroyed by the owner, or to any person picking a moderate number of flowers for pleasure, or for the purpose of growing them on his own ground, and not for sale or export, or by persons granted a permit for the purpose. The Ordinance authorises the Administrator to grant permits or licences without charge, and subject to such restrictions as may be imposed.

The punishment for contravention of the Ordinance is limited to a fine of £5 for a first offence, or £10 for a second or repeated offence, with imprisonment for one month in default of payment.

Education.—Ordinance 6 authorises the Attendance Officer to

sue in his own name, as such Officer, for the recovery of school fees due to aided primary schools, and provides that the costs of such proceedings shall in the first instance be borne by the Provincial Revenue Funds, and the sums recovered over and above the costs shall be paid over to the school authorities in charge of aided primary schools.

Ordinance 9 amends s. 21 of Law 15 of 1877, which restricts corporal punishment to infliction by a principal teacher, and such punishment may now be inflicted by the head teacher, or by the assistant teacher in the presence of a head teacher.

Municipal.—S. 96 of the Municipal Corporation's Law 19 of 1872 fixes the quorum of a Municipal Council at half the full complement of that Council.

Ordinance 7 adds a proviso to that section, reducing the quorum where it may be necessary to do so if any Councillors are interested in any question to be decided by the Council, or are otherwise disqualified from taking part in the proceedings, in which case a quorum of the Council shall, for the purposes of such question, be constituted by two-thirds of the remaining number of Councillors.

The same Ordinance extends the powers of Town Councils so as to authorise them to make by-laws for securing the prevention and destruction of noxious insects within municipalities, and so as to authorise them to make grants of bursaries from municipal revenues to any public educational institution with or without the municipality.

Ordinance 11 extends the municipal franchise to women, but excepts from the franchise any woman who is a native or descendant in the male line of a native in countries which have not hitherto possessed elective representative institutions founded on the parliamentary franchise, unless such person shall obtain from the Provincial Executive Committee an Exemption Order.

The husband and wife are not debarred from enrolment as voters in respect of the same premises, if there is joint ownership or occupation of a value sufficient to bring them within the provisions of s. 13 of the Natal Municipal Corporation's Law 19 of 1872.

Ordinance 12 extends the franchise to women in the cases of townships erected under the Townships Law No. 11 of 1881.

Ordinance 19 authorises the Borough of Dundee to purchase a specified piece of land and to raise money.

The object of the Ordinance is to enable the Borough of Dundee to set apart the land so purchased as a native Location, and authorises the Town Council to sell or lease such parts or the whole of the land to natives for residential purposes upon such terms and subject to such conditions as the Town Council shall prescribe, provided that alienation, and the conditions thereof, shall be subject to the approval of the Administrator and Provincial Executive.

The moneys borrowed under the Ordinance are to be applied to the special purchases contemplated by the Ordinance, and the Town Council is required to pay proceeds of sales of any portion of the land to the credit of a Sinking Fund in the names of Trustees, which Sinking Fund is to be devoted entirely to the repayment of the moneys borrowed and the interest, any balance to be devoted to such purposes as the Town Council shall direct. The Trustees may invest the Sinking Fund in certain Trust securities detailed in the Ordinance.

Licensing Act.—The Natal Licence and Stamp Act, No. 43 of 1898, is extended so as to require any manufacturer, not being the holder of a wholesale or retail Dealer's Licence or other licence specially authorising business carried on at the same place, to take out an annual licence at the cost of £3; but if the capital invested in the business does not exceed £250, or if the gross sales of the previous year did not exceed £250, the Licence fee is reduced to 10s.

Manufactures of foodstuffs made from products of the South African Union and articles manufactured by pupils attending schools, or articles of native workmanship (not including lethal weapons), when sold or supplied for use by natives only, and not for trade purposes, are exempt.

The Ordinance also imposes licence duty of £3 on motor garages.

The Act provides that no person shall be deemed to be a wholesale or retail dealer within the meaning of the Natal Acts 18 of 1897 and 43 of 1898, merely because he sells articles manufactured or grown by him or milk or meat or animals in the ordinary course of his farming business.

Motor-cars.—Ordinance 15 amends in certain unimportant respects the provisions of Natal Ordinance No. 11 of 1913.

4. ORANGE FREE STATE.

[*Contributed by* C. A. Beck, Esq., B.A., LL.B.]

Ordinances passed—14.

Finance.—Nos. 1, 2, and 12 apply various sums of money to the service of the Province for the period ending March 31, 1915. No. 8 charges the Revenue Fund with certain unauthorised expenditure incurred in the year ending March 31, 1914.

Education.—No. 10 amends the Education Act, No. 35 of 1908, by providing (*a*) for the appointment of attendance officers to enforce the working of the Act in each district (s. 9); (*b*) for the appointment of Secretaries and Treasurers to every School Board (s. 63); and (*c*) the duties of such secretaries (ss. 96 (*a*), 98, and 99, and s. 13 (1) of Act 8 of 1910). Further slight amendments have also been effected in ss. 99, 100, and 101 of Act 35 of 1908.

Game.—No. 13 repeals ss. 2 to 9 inclusive of Law 17 of 1898, and the whole of Ordinance 9 of 1905; provides for a close season from August 1 to March 31 inclusive; regulates the shooting or trapping of game within the Province, its sale and exportation, and prohibits the destruction of the eggs or young thereof. It further enacts that the property in domesticated ostriches shall not be lost by escape provided such ostriches, if over the age of six months, be branded in some visible place.

Motor-cars.—No. 6 is an affirmation *ipsissimis verbis* of Ordinance 3 of 1913, rendered necessary by the existence of a doubt as to the validity of the latter.

Local Government.—No. 14 amends Ordinance 4 of 1913 by (*a*) extending the definition of householders (s. 2); (*b*) restating the qualification of Councillors (s. 24); (*c*) restricting the qualification of voters (s. 29); (*d*) providing for a further exemption from rates (s. 120); and (*e*) narrowing the rights of registered property owners to vote at meetings convened to sanction the raising of loans (ss. 137, 138). The provisions in case of joint occupiers (s. 31) are repealed.

Pounds.—No. 5 prescribes the trespass fees payable under s. 26 (3) of Ordinance 3 of 1912, and provides a maximum and minimum amount. It also amends the law with reference to release before impoundment (s. 35 (1) and (2)). Certain restrictions on the place

of sale of impounded stock are removed (s. 37 (1) and (7)). Pound-masters are granted the right to make percentage deductions from the proceeds of sales, and to retain such amounts for their own use (s. 39 (1)). The scope of municipal regulations is increased (s. 42).

Stamps and Licences.—No. 11 provides that licences to carry on certain businesses shall not in future be granted to any person, except upon a certificate granted by a specially constituted Board, allowing the issue of a new licence. Licence once granted exempts a reference to the Board for the purposes of a renewal, unless the holder thereof has been convicted under s. 41 of the Liquor Ordinance (No. 8 of 1903). The businesses referred to are (1) general dealers, (2) hawkers, (3) restaurant, café, or confectioners' shops, and (4) retail mineral-water shops.

Transfer Duties.—No. 3 exempts the Central Agricultural Society from the payment of transfer duty in respect of a lease *in longum tempus* of a certain piece of ground.

Vermin Extinction.—No. 4 provides for the registration within the Province of seven or more persons as a vermin club; authorises the payment of rewards and subsidies thereto for the destruction of vermin as therein defined; prohibits the laying, without written consent, of poison within wards where such clubs exist; empowers the Administration in certain cases to authorise entry upon private property for the destruction of vermin; and exempts such clubs and the members thereof from payment of dog taxes in respect of any dog used for the purposes of the club. Power to frame regulations is conferred upon the Administrator.

5. TRANSVAAL.

[*Contributed by* G. Hartog, Esq.]

Ordinances passed—12 (of which 6 were Appropriation Ordinances).

Municipal Elections.—By Ordinance 2 (as further amended by Ordinances 6 and 10) a number of striking amendments to the principal law (Ordinance 8 of 1912) were made:

(1) Women were made eligible as Town Councillors; (2) the qualification of British subject, whether for vote or seat, was done away with; (3) all prior criminal disqualifications, whether for voter or Councillor, were repealed, the only disqualifications per-

mitted to remain being those of colour, lunacy, and insolvency; (4) the property qualifications for voters and Councillors were repealed; (5) the system of election by proportional representation was introduced; (6) the closing hour of the poll was extended from 8 p.m. to 9 p.m.; (7) expenses in connection with printing, publishing, and posting posters, requesting the support of voters, and in connection with the hire of vehicles, were made permissible electoral expenses.

Roads.—Ordinance 3 makes certain amendments in the principal law (Ordinance 5 of 1912) with regard to determination of outspans on sub-division of a farm.

Education.—By Ordinance 7 of 1914 amending sub-sections 24 and 27 of the principal law (Act 25 of 1907) secondary education (that is, up to and including matriculation standard) for white children was made free. Trade and industrial schools were, however, left as fee-paying institutions, with the proviso that the Administrator, on the advice of the Provincial Council, might at any time determine that they were to fall into the class of free schools.

Shop Hours.—Owing to an error in promulgation, the Shop Hours Ordinance 9 of 1913 [1] was declared *ultra vires*. The Ordinance was re-enacted by Ordinance 11.

6. SOUTHERN RHODESIA.

Ordinances—32.

Fertilisers.—Previous legislation respecting fertilisers, farm foods, seeds and pest remedies is amended and consolidated in No. 3.

Immigration Restriction.—The law regulating the entry of immigrants into Southern Rhodesia is strengthened and consolidated by No. 7, and amended further by No. 28.

Tobacco.—An excise duty is imposed by No. 9 on all cigarettes made in the territory, and a corresponding surtax on any imported into it.

Native Labour.—No. 10 provides for the registration of contracts with native servants under the direction of the officer who controls the issue of passes for natives.

[1] "Review of Legislation," 1913, p. 88.

Agricultural Statistics.—By No. 11 arrangements are made for the collection of statistics relating to pastoral, agricultural, horticultural, and dairying industries and factories dealing with animal or vegetable products of the country, land tenure and occupancy, and any other matter relating to rural industries prescribed by the Administrator.

Local Taxation.—By an amendment (No. 12) of the law relating to municipalities, places of public worship, buildings used for educational purposes, libraries, museums, cemeteries and the like, hospitals, lunatic asylums, benevolent asylums or orphanages, are exempt from rating.

Betting.—The object of No. 17 is to restrict betting by touts and advertisements, and to regulate the use of totalisators.

Protection of Wild Birds.—The sale and export of the plumage of skins of wild birds may be prohibited under No. 20.

Official Secrets.—No. 23 follows the lines of the Official Secrets Act [1] of the United Kingdom.

Pests of Fruit-trees.—No. 29 provides for the eradication or prevention of the spreading of pests on fruit-trees, and enacts that no compensation is payable for any damage done in the process unless it be due to negligence on the part of the Inspector or persons acting under his authority.

Customs.—No. 30 repeals existing laws on the subject of customs, and re-enacts them with amendments in the scale of duties. No. 31 provides for an excise duty upon beer and matches, and a customs duty upon South African beer and matches.

7. NORTHERN RHODESIA.

Proclamations—40.

Registration of Births and Deaths.—Previous Proclamations are repealed, and the law relating to the registration of births and deaths extended in No. 2.

Extradition.—The laws previously existing in North-eastern and North-western Rhodesia in respect to the surrender of fugitive criminals are made uniform in No. 3.

Cotton.—The object of No. 4 is the encouragement of the

[1] See Journal, vol. xiii. p. 320.

cotton industry by supervising and assisting its cultivation and sale.

Witchcraft.—The law relating to witchcraft is consolidated in No. 5. The particular form of evil device against which the law is directed is the "boiling water test," which "means the dipping into boiling water of the limbs or any portion of the body of a person with a view to extracting a confession of crime."

Probate.—No. 6 provides for the recognition within the territory of probates and letters of administration granted by the Courts of the United Kingdom and in British possessions.

Copyright.—Arrangements are made by No. 7 for the prohibition of the importation of books, with a view to the protection of copyright similar to those adopted elsewhere.[1] No. 8 prescribes penalties for infringement of copyright.

Taxation.—No. 9 consolidates the law relating to native taxes. The tax upon an extra wife is 10s. per annum.

Official Secrets.—No. 10 is similar to the Official Secrets Act 1911 of the United Kingdom.

Co-operative Societies.—No. 12 provides for the registration and management of co-operative societies.

War Legislation.—The exportation of foodstuffs was prohibited by No. 12, and of warlike stores by No. 13, extended by No. 35.

Land Registration.—The systems of land registration in force in North-eastern and North-western Rhodesia are consolidated with the previously existing system in Northern Rhodesia, and the law is re-enacted in No. 15.

Telegraphs.—No. 16 makes provision for the conduct of the telegraph service.

Censorship.—No. 17 confers on the Administrator the power of opening, detaining, or delaying postal packets owing to the war.

Trading with the Enemy.—No. 18 warns against trading with the enemy. It was extended by No. 29 upon the lines of legislation in the United Kingdom.

Evidence.—Nos. 19 and 20 provide for husband or wife to be called as a witness for the defence of the other, even if they belong to a tribe which practises polygamy. No. 21 is similar in character in reference to Christian marriages.

[1] See, *e.g.*, Straits Settlements, *supra*, p. 58.

Liquor Laws.—No. 22 regulates the making and use of native beers and No. 40 imposes a duty upon them.

Royal Forces.—Provision is made by No. 23 for the raising of a volunteer force.

Defence of the Territory.—Special provision is made by No. 24 owing to the war for the protection of railway bridges and culverts, and by No. 32 for the maintenance of telegraphic communication.

Excise.—An excise duty upon spirits manufactured or distilled within the territory is imposed by No. 26. A tax is imposed on cigarettes similar to that in Southern Rhodesia [1] by No. 27.

Bankruptcy.—In the distribution of property, preference is given by No. 28 to taxes and wages and salaries.

Interpretation of Statutes.—A general interpretation Proclamation (No. 30) extends the previous Proclamation.[2]

Rubber.—The law as to cutting and collecting, manufacturing and trading in rubber is consolidated in No. 31.

Protection of Wild Birds.—No. 33 prohibits the sale and exportation of the plumage or the skin of wild birds.

Customs.—The law relating to customs is consolidated in No. 38, and a new scale set forth therein. No. 39 deals with the management and collection of the duties.

VI. WEST AFRICA.

[*Contributed by* ALBERT GRAY, ESQ., C.B., K.C.]

1. GAMBIA.

Ordinances passed—16.

Pensions.—If an officer, on his retirement, becomes a director of any company the principal part of whose business is in any way directly concerned with the Colony, without the leave of the Governor, the Governor may, with the approval of the Secretary of State, stop his pension. If he ceases to be a director, it may be restored. (No. 3.)

Copyright.—Copies made beyond the Colony of any work in which copyright subsists, which if made in the Colony would infringe

[1] See *supra*, p. 166.

[2] No. 3 of 1904.

copyright, may, on the demand of the owner of the copyright, be stopped by the Customs authorities as prohibited imports under the Customs Ordinance, 1882. (No. 6.)

Aircraft.—The Governor may specify areas over which aircraft must not be navigated, and may prescribe the areas within which aircraft coming from abroad must land. (No. 7.)

Perjury.—If it appears to the Supreme Court that any person has been guilty of perjury in any proceeding before it, it may order his prosecution for perjury, or commit him for contempt of Court for any term not exceeding six months, or fine him any sum not exceeding £50. Similar powers are given, with half the punitive power, to the Police Magistrate or a Travelling Commissioner. (No. 9.)

Wild Birds' Preservation.—Further additions are made (No. 11) to the list of protected birds originally made by the Ordinance of 1901. The birds are marabout storks, three varieties of egrets, and three varieties of Golden Cuckoos. Penalties are imposed for killing these birds, taking their eggs, or dealing in their plumage.

Trading with the Enemy.—The Ordinance on this subject (not passed till December 31, 1914) follows in effect the Act of the United Kingdom,[1] the differences consisting only of adaptations due to local requirements. (No. 16.)

2. GOLD COAST.

(i) COLONY.

Ordinances passed—23.

Immigration.—Two Ordinances (Nos. 4 and 7) on this subject provide that any person, not born in West Africa, and not being shipwrecked, must, if so required by the Governor, on entering the Colony, deposit a sum of £25. If within twelve months of his arrival he becomes destitute or unable to support himself, the deposit is forfeited to the Government, and may be used to repay the costs of his maintenance and of his repatriation. If during or after the twelve months he has not become destitute, and desires to

[1] 4 & 5 Geo. V. c. 87. See *supra*, p. 25.

quit the Colony, the deposit is returned to him. Another case is not provided for, viz., if the depositor remains a self-supporting denizen of the Colony.

Trade Marks.—The Registration of Trade Marks Ordinance (No. 5), takes the place of the Ordinance of 1900. The new law follows legislation of the United Kingdom.

Aircraft.—No. 8 is in model form.[1]

Bank Holidays.—The Governor may, by Order in Council or Proclamation, declare any days to be bank holidays. (No. 10.)

Foreign Marriages.—Effect is given by No. 18 to the amendments of the Foreign Marriages Act, 1892, made with respect to residence and notice, by the Foreign Marriages Order in Council, 1913. Notice of an intended marriage must be given by one of the parties who has resided in the Colony not less than one week.

Trading with the Enemy.—Three Ordinances deal with this subject. No. 9 adds a section to the Criminal Code, against the supply to or obtaining from an enemy country any goods or merchandise, the making of any policy of insurance for the benefit of any person in an enemy country, or entering into any commercial, financial, or other contract with an enemy.

No. 10 is in normal form, except that the definition of "trade with an enemy" refers to Proclamations issued by the Governor (not those of His Majesty).

No. 15 amends No. 10 by empowering Customs officers to seize and detain goods suspected of being used in breach of the Ordinance.

Public Officers' Protection.—No. 12 is an act of indemnity as respects all acts done in relation to the war, between the declaration of war (August 4) and the commencement of the Ordinance (November 10, 1914).

Restrictions on Aliens.—The Act 4 & 5 Geo. V. c. 12 of the United Kingdom[2] is followed in No. 21.

(ii) ASHANTI.

Ordinances passed—8.

Extradition.—All powers conferred on a police magistrate or justice of the peace in the United Kingdom, under the Extradition

[1] See, *e.g.*, Gambia, p. 170.

[2] See *supra*, pp. 11–13.

Act, 1870, may in Ashanti be performed by any provincial, travelling, or District Commissioner or by the Police Magistrate, Coomassie.

The other Ordinances make verbal amendments in existing enactments, and apply recent Ordinances of the Colony (including emergency legislation) to Ashanti.

(iii) NORTHERN TERRITORIES.

Ordinances passed—4.

Civil Process.—Provision is made by No. 4 for the mutual enforcement of civil process as between the courts of the Colony, Ashanti, and the Northern Territories. (No. 4.)

The other Ordinances apply legislation of the Colony.

3. SIERRA LEONE.

Ordinances passed—22.

Aircraft.—No. 5 is in the same terms as the Gambia Ordinance.[1]

Wild Birds' Protection.—A schedule of birds the exportation of whose plumage is not prohibited is given by No. 7. The list comprises the common species of birds, such as the bustard, guinea-fowl, pigeon, quail, duck, snipe, etc.

Foreign Marriages.—Ordinance No. 10 is similar to the Gold Coast Ordinance.[2]

Spirits.—It is prohibited to give spirits to any native in the Sherboro or adjoining districts. (No. 14.)

Midwives.—The fee of £1 for the registration of a midwife under the Medical Practitioners, etc., Ordinance, 1908, is no longer exigible. (No. 15.)

Quarantine.—No. 16 repeals the Quarantine Ordinance, 1882, and appends a schedule of new quarantine regulations.

Prisons.—No. 21 designates the buildings which are to be prisons within the meaning of the Prisons Ordinance of 1900, and provides that any prisoners may, by order of the Governor, be worked outside the limits of the prison.

[1] See *supra*, p. 170. [2] See *supra*, p. 171.

Emergency Legislation.

Trading with the Enemy.—The Ordinance No. 22 is in shorter form than that of Gambia.[1] "Trading with the enemy" is confined to acts declared such by Royal Proclamation.

4. NIGERIA.

Ordinances passed—20.

By a series of Orders in Council dated November 22, 1913, the Nigerias were reconstituted. Southern Nigeria Colony, together with a portion of its Protectorate, became the Colony of Nigeria. The remaining parts of that Protectorate, and the whole of Northern Nigeria, became the Protectorate of Nigeria. This Protectorate is divided into two parts, each under a Lieutenant-Governor, who is subject to the Governor of the Colony. For the Colony there are an Executive Council and a Legislative Council, as heretofore; for the Protectorate all executive and legislative powers are centred in the Governor. For deliberative purposes there is a Nigerian Council, consisting of the Governor, the Executive Council, the Residents and Commissioners of the First Class (these are official); there are also twelve unofficial members, one representing the Lagos Chamber of Commerce, another the Chamber of Mines, four Europeans and six natives nominated by the Governor.

Interpretation.—An Interpretation Ordinance (No. 4) follows the English Act of 1889, with local additions and adaptations. As regards Acts of the United Kingdom applied to Nigeria, there is a provision that such Acts are to be read with such alterations as to names, localities, courts, offices, persons, and "as may be necessary to make the same applicable to the circumstances."

Courts.—A new Supreme Court is constituted by No. 6. There is to be a Chief Justice, and such Judges as the Governor may appoint (for Nigeria); but the Chief Justice and Judges of the Gold Coast are Puisne Judges of the Court. The Court has all the jurisdiction of the High Court in England (except Admiralty), and, as regards infants and lunatics, all the jurisdiction and powers of the Lord Chancellor. Effect is to be given to native law and custom, so far as not repugnant to natural justice, or incompatible with legisla-

[1] See *supra*, p. 170.

tion of the Colony. The local jurisdiction of the Court in the Protectorate is defined, with power to the Governor to extend or limit it.

Native magistrates are authorised to act as Commissioners of the Court. They can take the initiatory steps in Supreme Court cases, and decide interlocutory questions, take declarations, and receive productions of documents. These magistrates also have subordinate jurisdiction in civil and criminal proceedings, in civil cases where the property involved does not exceed £50 in value, and in criminal cases where the offence is punishable with fine not exceeding £50, or imprisonment for not more than six months.

The limits of the Supreme Court area of jurisdiction being thus defined, another Ordinance (No. 7) prescribes the jurisdiction of the provincial Courts outside that area. The chief Judge of a province is the Resident or Commissioner, who has unlimited civil and criminal powers. He is assisted by the district officers, who in their legal functions are styled "commissioners" of the provincial Court. Some of these have civil jurisdiction up to £25 in value, others to £50. In criminal cases, some may award two years' imprisonment and £50 fine, others of higher status may award five years' imprisonment and £100 fine. Every sentence of death, deportation, imprisonment exceeding six months or fine exceeding £50, has to be confirmed by the Governor, who may disallow or vary the sentence, or order a new trial before the same or another Court, or before the Supreme Court.

Among special provisions is one requiring that no Court shall enforce against a native any obligation incurred to a non-native, so far as it is based on credit, if it appears that the native did not fully understand the nature of the obligation and the consequences of failure to perform.

A third Ordinance (No. 8) deals with native Courts. These are presided over by an Alkali, or a native chief, and have jurisdiction, civil and criminal, in cases where the parties are natives of the province, and to a limited extent where they are not. The powers of the Court are to be set forth in the warrant establishing it, issued by the Resident or Commissioner of the province, subject to the approval of the Governor. It is clearly contemplated that some of these Courts will have jurisdiction in capital cases, but judgments in such cases must be supervised by the Resident and the Governor.

A native Court is empowered to make rules of Court in which may be embodied native law. These must be approved by the Governor.

Criminal Procedure.—The constitution of the Courts of the now united Colony and Protectorate is followed by a law of Criminal Procedure (No. 9), which is drawn on the lines of the Colonial Office model form.

Native House Rule.—The Native House Rule Ordinance (No. 121 of the Laws of S. Nigeria) is repealed. (No. 15.)

Arbitration.—No. 17 follows the Arbitration Act, 1889.

Mineral Oils.—It is unlawful for any person to search or drill for or work mineral oils in Nigeria without a licence from the Governor (No. 17), for which no Government servant can apply.

Marriages.—The registration of marriages is provided for in No. 18, which is on normal lines. Marriage is allowed between a man and his deceased wife's niece, as well as her sister.

Coroners.—The coroners are the Commissioners of the Supreme Court, and every District and Assistant District Officer (No. 19).

Trading with the Enemy.—In the Nigeria Ordinance (No. 12) " trading with the enemy is defined as any transaction prohibited by or under any Proclamation issued by His Majesty . . . or constituting the offence of trading with the enemy at common law " or under any Imperial statute. The Ordinance follows the Act of the United Kingdom.

Aliens' Restriction.—No. 13 follows the provisions of 4 & 5 Geo. V. c. 12.[1]

General Defence.—No. 14 covers in greater detail the ground of the Defence of the Realm Act, giving the Governor power by Proclamation or Order in Council to form naval and military and constabulary forces, to prohibit the exportation of foodstuffs, to confer on a Committee of Control the power to regulate prices, prohibit the sale of spirits, confiscate foodstuffs held up from market, requisition goods for the public service, etc.

[1] See *supra*, pp. 11–13.

VII. EAST CENTRAL AFRICA.

1. EAST AFRICA PROTECTORATE.

[*Contributed by* ALBERT GRAY, ESQ., C.B., K.C.]

Ordinances passed—24.

Patents and Designs.—A short Ordinance (No. 1) provides for the issue of letters patent for any invention for which letters patent have already been granted in the United Kingdom, and for the registration of designs already registered in the United Kingdom. The Registrar appointed under this Ordinance is to act as secretary under the Inventions and Designs Act, 1888, of India, which remains in force.

Registration of Documents.—The following documents are not required to be registered under the Regulations of 1901 : composition deeds, documents relating to shares in a joint-stock company, debentures of such a company, and documents not themselves affecting rights in immovable property but merely creating a right to obtain another document having such effect (No. 2).

Another Ordinance (No. 8) amends the Regulations of 1901 by providing that on registration a printed or written copy of the document must be produced, which, when examined with the original, is to be affixed to the register. Another (No. 22) authorises the registrar to refuse any copy which is not in durable ink or on durable paper.

Arbitration.—A law (No. 4) which adapts the Arbitration Act, 1889, is substituted for the provisions on the subject in the Indian Civil Code.

Trespass.—Trespass on enclosed lands without lawful excuse is made a criminal offence, punishable with fine not exceeding Rs. 75 (No. 5). The owner or person in charge of the lands may require the trespasser to give his name and address, and if he refuses, or is a native not in the employ of a non-native, may arrest him without warrant, if he has reason to believe that by not arresting him there will be undue delay, trouble, or expense in making him answerable to justice. A subsequent Ordinance (No. 22) requires that the arrested person must be handed over to a police officer, so as to be taken before a magistrate with the least possible delay.

Criminal Procedure.—Ordinance No. 6 is an adaptation of the Indian Criminal Procedure Code to the needs of the Protectorate. That Code has been in operation for many years, but has required amendment from time to time chiefly owing to the local differences of judiciary, etc.

Prisons.—Ordinance No. 13 makes provision for the organisation of the prisons staff, and the management of prisons. It takes the place of the Prisons Regulations of 1902.

Military.—The war shows itself for the first time in No. 14 (passed August 10), which authorises the Governor to raise and maintain a Reserve force, consisting of men who have completed their term of service in the King's African Rifles. The enlistment is for three years, and each reservist, when called out, gets the same pay, rations, etc., as he had on his discharge from the Rifles. When not called out, he gets Rs. 1 a month.

Probate.—Where the legislature of any British Possession makes adequate provision for the recognition in that Possession of probates on letters of administration granted in the Protectorate, Ordinance No. 15 may be applied to that Possession, and thereupon its probates and letters of administration may, on being deposited in the High Court, be sealed, and then have effect as if granted by the High Court.

Roads of Access.—The principle is laid down in Ordinance No. 16 that every purchaser or lessee of Crown Lands is entitled to access to a reserved or proclaimed road. If the access road passes over Crown Land, the land officer determines its direction. If it passes over land purchased or leased from the Crown, compensation must be paid to the purchaser or lessee in respect of growing crops or personal improvements. The width of the road is not to exceed 20 feet; it must be maintained by the person requiring it, and need not be fenced.

Wild Birds' Eggs.—The Governor may (No. 17) by order prohibit (1) the taking or destroying of wild birds' eggs in any year or years in any specified area, or (2) the taking or destroying the eggs of any specified kind of wild birds in any specified area.

Protection of Women.—Ordinance No. 18 follows Acts of the United Kingdom relating to the procuration and defilement of women and girls.

Electric Wires.—The conditions under which a person can obtain

an easement of running electric wires over the lands of another are set out in Ordinance No. 24. Permission is obtained from the Governor in Council, but previously notice has to be given to the owner of the land; if he does not agree, a magistrate decides what compensation is to be paid, if the injury is such as can be compensated by money; if it cannot be so compensated, the proposal must be dropped.

2. UGANDA.

[*Contributed by* ALBERT GRAY, ESQ., C.B., K.C.]

Ordinances passed—17.

Poll Tax.—All previous Hut and Poll Tax Ordinances are repealed, the law being consolidated in No. 2. Poll tax is payable by adult males, and varies, in the several provinces and districts, between Rs. 3 and Rs. 5; in four districts nothing is payable. The amount for which each person is liable is that provided for the province or district in which he is resident on the first day of April. Those who cannot pay the tax must work for the Government for one month. Public servants, soldiers, police, etc., are exempt.

Opiates.—The sale and use of opiates are restricted by No. 4, which follows the lines of the Ordinances noted in the "Review of Legislation" for 1913.

Marriage.—An Ordinance (No. 5) provides for the conversion of a native marriage into a legal marriage. The parties come before a Registrar, appropriate questions are put and answered, and the procedure is complete.

Commissions of Inquiry.—Power is taken by No. 14 to appoint Commissions of Inquiry on public affairs, such as the conduct of officers or chiefs, or the management of any public or local institution.

Notaries.—The following persons only may act as notaries: (1) any advocate of the High Court of Uganda: (2) any person entitled to practise as a notary in England, Scotland, or Ireland. They must, however, take out a certificate and pay the prescribed fees. (No. 12.)

Fugitive Offenders.—No. 13 provides for the extradition of fugitive offenders from the Sudan.

Trading with the Enemy.—Uganda first applied the Proclama-

tion of August 5, 1914, as an Ordinance (No. 10, August 13, 1914). Subsequently (December 23) another Ordinance (No. 16) was passed embodying the main provisions of the Act, 4 & 5 Geo. V. c. 87 [1] of the United Kingdom. There is, however, one modification: in the Uganda Ordinance, viz. there is but one set of penalties, no provision being made for minor penalties on summary conviction.

Volunteer Force.—The Governor may call out the Volunteer Reserve in the case of war or serious disturbance affecting the Protectorate; it thereby falls under military law in like manner as the King's African Rifles. (No. 9.)

Supplies.—A Supplies Board is established by No. 8, which has wide powers of regulating the distribution of supplies. It can fix maximum prices, direct firms or persons to furnish inventories of their stocks, and prohibit sales, except with the leave of the Board. There is no appeal from an order of the Board; and disobedience is met by penalties. The supplies scheduled are flour, kerosene, petrol, rice, salt, sugar, and washing-soap.

3. SOMALILAND.

[*Contributed by* ALBERT GRAY, ESQ., C.B., K.C.]

Ordinances passed—2.

Alcoholic Liquors.—Duty is to be charged at the rate of Rs. 2 per gallon at 50 degrees of the Gay-Lussac alcoholometer (temp. 15° Cent.). This duty is augmented proportionally for each degree above 50 degrees, and diminished for each degree below 50 degrees. On all wines, beers, and other fermented liquors the duty is 7 per cent. *ad valorem.*

Prices and Stocks of Articles of Commerce.—Power is taken by No. 2 (November 30, 1914) to prescribe a scale of maximum prices for the sale of articles of commerce. Any person selling or attempting to sell at prices above the maximum is liable to Rs. 500 fine.

The rest of the Ordinance follows the Article of Commerce (Returns, etc.) Act, 1914,[1] the local authority, in substitution for the

[1] See *supra*, p. 25.

Board of Trade, having power to obtain returns of stocks held and to seize stocks unreasonably withheld from markets.

4. ZANZIBAR.

[*Contributed by* J. E. R. Stephens, Esq., H.B.M. *Magistrate.*]

1913.

Decrees passed—10.

In 1913 ten Decrees, or local laws, were promulgated in Zanzibar. Those which were signed only by His Highness the Sultan were applicable only to the subjects of the Sultan, whereas those which were countersigned by the British Agent and Consul-General applied to all the inhabitants, both European and native.

By Decree No. 3 of 1913 the Indian Limitation Act, 1908, which was already applicable to the British Court, was made applicable to the Sultan's Courts.

Preservation of Plantations.—By the Plantations Preservation Decree (No. 4 of 1913), the owner or occupier of any land whereon there are any dying or dead coconut-trees or any trees attacked by any insect or parasite, is required to cause the same, whether standing or fallen, to be consumed by fire or to be buried in the ground at a depth of not less than three feet, or to be entirely submerged in water or to be otherwise disposed of, so that the trees shall not serve as a breeding-place for any insect or parasite. Any person who is the owner or occupier of any land whereon are clove, orange, lime or other trees or shrubs, upon which there is growing the parasite known as kirukia must cause the parasite to be cut away from such trees, and consumed by fire. Persons are required to keep their trees reasonably free from under-bush and weeds, so as to preclude damage by fire. Persons found guilty are liable upon conviction before a magistrate to imprisonment, either with or without hard labour, for a term not exceeding six months, or to a fine not exceeding Rs. 500 (£33 6*s.* 8*d.*).

Dairies.—By the Dairies Decrees (No. 5 of 1913) no person is permitted to carry on the trade of a dairyman unless licensed to do so. Any person carrying on the trade of a dairyman without a licence or

[1] 4 & 5 Geo. V. c. 65.

obstructing any officer duly authorised, or neglecting to comply with any of the provisions of this Decree or of the Regulations made thereunder, is liable on conviction before a magistrate to imprisonment, with or without hard labour, for a term not exceeding one year, or to a fine not exceeding Rs. 1,000, or to both, and to have his licence endorsed or revoked in addition to such other penalty.

Liquor Licensing.—By the Liquor Licensing (Amendment No. 2) Decree (No. 9 of 1913) the prohibition of the sale of intoxicating liquors to natives was extended to " mean and include any person whose place of origin, either by birth or descent, shall have been within the British Protectorate of Aden, or within the dominions of His Highness the Sultan of Muscat, or within such territory comprised in the coast-ship lying between the said Protectorate and the said dominions as may be within the British sphere of influence."

Miscellaneous.—By the Zanzibar Workman's Breach of Contract Act, 1913 (No. 7 of 1913), the Act of the Governor-General of India in Council known as "The Workman's Breach of Contract Act, 1859," save s. 5 thereof, was made applicable to the Sultan's dominions. By the Police (Amendment) Decree (No. 13 of 1913) power was given to form a Police Reserve, composed of time-expired men.

The Public Health (Amendment) and the Street Lighting Decree (No. 10 of 1913) made provision for street-cleaning and lighting, and for the first time imposed a compulsory rate on every occupier.

1914.

Decrees passed—26.

In 1914 the Zanzibar Protectorate was transferred from the control of the Foreign Office to that of the Colonial Office. During that year there were twenty-six Decrees promulgated, besides Orders in Council and other Proclamations.

Native Liquor.—By the Native Liquor Regulation Decree (No. 3), no person is permitted to drink or have in his possession tembo tamu, tembo kali, pombe, fermented asali, or any other kind of liquor prepared by natives, containing 3 or more per cent. of alcohol. Tembo tamu is obtained by making an incision in the coco-nut tree, and collecting the juice. It is a wholesome and nourishing liquor, but after it has been exposed for a few hours to the sun, or if it is collected in a vessel which has any acidity in

it, it becomes tembo kali, and is then an intoxicant. This liquor is drunk by a certain class of natives, until they become stupefied. The chief collectors of this tembo are a tribe from German East Africa, called the Wadigo. It seems to be their chief occupation.

Constitution.—On January 21, 1914, two Orders in Council relating to Zanzibar were issued. The one was "The Zanzibar Order in Council, 1914," and the other "The Eastern African Protectorates (Court of Appeal) Amendment Order in Council, 1914." These two Orders repeal the previous Orders in Council of 1906, 1908, and 1909, and re-enact their provisions with certain alterations and additions, occasioned by the transference of the Protectorate from the Foreign Office to the Colonial Office. Under the old Orders in Council there was an appeal from the British Court in Zanzibar to the High Court of Bombay, but this has been now transferred to His Majesty's Court of Appeal for Eastern Africa. The Zanzibar Protectorate Council Decree (No. 6) established a Council for the Protectorate. The Council consists of His Highness the Sultan as President, the British Resident as Vice-President, the Chief Secretary, the Attorney-General, and the Treasurer, who are styled official members, together with three persons styled unofficial members of Council, who are nominated and appointed by the British Resident, with the approval of the High Commissioner for the Zanzibar Protectorate. The Council has no legislative authority. There exists no legislative council similar to those in other British Colonies and Protectorates. It is the duty of the Judge of any Court, who, after the promulgation of this Decree, passes or confirms as the case may be a sentence of death in any criminal trial, to forward forthwith the full record of such trial to the British Resident for the consideration of the Council. The Council has power to confirm the sentence or commute the same to such term of rigorous or simple imprisonment as may be thought fit, or to order that any person who shall have been sentenced to death be detained in such place as may be thought fit, or to remit absolutely and entirely the said sentence.

The Zanzibar Notaries Public Decree (No. 7 of 1914) authorises the appointment of persons holding the necessary qualifications as notaries public.

Infectious Diseases.—By the Public Health (Amendment) Decrees (No. 8), the expressions "infectious disease" or "dangerous

infectious disease" are to be construed to mean and include any of the following diseases, that is to say: cerebro-spinal meningitis, cholera, diphtheria, membranous croup, erysipelas, leprosy, plague, puerperal fever, relapsing fever, small-pox, typhoid fever, typhus fever, trypanosomiasis, sleeping sickness, yellow fever, tuberculosis pulmonalis. But the British Resident has power, by notification in the Official Gazette, to declare any other infectious or contagious disease, as he may think fit, to be included in this definition.

At the outbreak of the war numerous Orders in Council, Decrees, and other Proclamations affecting the Protectorate were published; but as they no doubt were similar to those published in other parts of the Empire, and are of a more or less transient nature, it is unnecessary to refer to them further.

VIII. SOUTH ATLANTIC.

1. BRITISH GUIANA.

1913.

[*Contributed by* The late Sir T. Crossley Rayner.]

Ordinances passed—31.

During the year thirty-one Ordinances were passed, two being in the nature of private Ordinances, the rest being public general Ordinances.

Taxes.—No. 1 is the Ordinance under which are collected the various taxes and licence duties—the inland revenue of the Colony. This Ordinance is enacted annually since the Combined Court, which alone has power to levy taxes, always refuses to authorise the raising of revenue for more than one year, first on June 21 by Ordinance No. 10, which altered the rates for licences for motor-cars, and then on July 9 by Ordinance No. 11, which explained certain words imposing spirit duties.

Customs Duties.—Ordinance No. 2 enacted the Customs duties to be levied on goods imported into the Colony during the ensuing financial year. But on May 21 it was repealed and another Ordin-

ance (No. 8) passed, which enacted another table of duties in accordance with the Canadian Reciprocity arrangement with British Guiana and the West Indies, which came into operation at this time.

Sea Defences.—The coastline of British Guiana being below the level of the sea, an elaborate system of sea defences is necessary. Hitherto, under the Ordinances dealing with this subject, the proprietors of land abutting on the sea-shore are made responsible for constructing and maintaining the sea-dams in front of their lands. The Government, however, has now agreed to assume the responsibility of constructing and maintaining the sea defences and of defraying one quarter of the cost of so doing, the proprietors remaining liable for the other three quarters. Ordinance No. 9 carries this new arrangement into effect and makes provision for dividing the Colony into Sea Defence Districts, and constitutes six commissioners for each district—the Colonial Civil Engineer and five others selected by the proprietors of the land in the district—who are empowered to deal with the sea defences of the district, the actual work of construction and maintenance being in the hands of the Public Works Department. Power is given to assess and recover from the proprietors their share of the cost of the work. A somewhat similar scheme was enacted in 1906 for a part of the Colony, but the new Ordinance extends it to the whole Colony.

Pensions.—Ordinance No. 12 makes an important amendment in the pension law of the Colony by providing that if any Government official who has retired on a pension accepts the post of director of a Company carrying on business in the Colony, without previously obtaining the permission of the Governor, he shall forfeit his pension. A retired Governor must obtain the permission of the Secretary of State. Power is given to restore the whole of the pension, or a part, on such terms as may be considered advisable.

A further amendment was also made in the pension law [1] by No. 27, by providing that Government officials who come from another Colony may retire from the service of this Colony on pension although they may not have completed ten years' service in the Colony (the minimum period qualifying for a pension in ordinary cases), provided that their total service in all the Colonies they have served in is not less than ten years. It further provides that leave of absence on half-pay for not more than three months at any one

[1] Ordinance 11 of 1903.

time may be counted in full as service for pension purposes. Formerly no leave of absence on half-pay counted for pension.

Disease of Animals.—Ordinance No. 14 prevents the importation of animals suffering from disease or coming from a place where disease exists.

Insolvency.—Ordinance No. 16 amends the Insolvency Ordinance, 1900, by enacting several sections of part 1 of the Bankrupt and Deeds of Arrangement Act, 1913,[1] thus bringing the bankruptcy law of the Colony as far as local circumstances permit into line with the law obtaining in England.

Companies.—Ordinance No. 17 practically reproduces the Companies (Consolidation) Act,[2] with such variations as local circumstances require, and thus brings the company law of this Colony into conformity with the latest legislation on the subject in England.

Sale of Goods.—Until 1913 the sale of goods in this Colony was regulated by the provisions of the Roman-Dutch law, many of which, such as the doctrine of *læsio enormis*, are inapplicable to the requirements of local commerce. The Roman-Dutch law also has no provision for many things which are necessary for the proper transaction of business under modern conditions, such as the vendor's lien, stoppages *in transitu* and *caveat emptor*. Ordinance No. 26, therefore, abolishes the Roman-Dutch law as to the sale of goods, following the example of most other Colonies where Roman-Dutch law prevails, and substantially reproduces the Sale of Goods Act, 1893,[3] with a few variations rendered necessary by local circumstances. Henceforth, therefore, the English law on this subject will be the law of British Guiana.

Early Closing of Shops.—Ordinance No. 13 repeals one passed in 1911, dealing with the same subject, and provides that no shop shall be opened before 6 a.m. nor be left open after 4 p.m. or 6 p.m. or 8 p.m., according to a classification of shops which depends on the amount of licence duty paid by the proprietor.

A half holiday is to be allowed on one day in each week, the day on which it is to be allowed being fixed by the Town Council after taking a ballot of the shop-keepers, but any shop-keeper is at liberty to give the half holiday on Saturday instead of the other day if he prefers. On the half holiday the shop closes at 1 p.m. This Ordinance only applies to the two towns in the Colony, Georgetown and

[1] 3 & 4 Geo. V. c. 34. [2] 8 Ed. VII. c. 69. [3] 56 & 57 Vict. c. 71.

New Amsterdam, shop-keepers in other places being left free to open and close when they like. This Ordinance follows to some extent the provisions of the Shops Act, 1911.[1]

Indian Hemp.—Ordinance No. 29 forbids the importation of Indian hemp, which includes gange, bhang charas, and *cannabis indica*, to every one except a licensed wholesale dealer, and restricts its sale to licensed retail dealers, and not more than four ounces can be sold to one person at a time or within seven days.

Opium.—Ordinance No. 30 was passed to give effect to the recommendations contained in the International Opium Convention signed at the Hague on January 23, 1912, and regulates the importation and sale of opium, morphine, cocaine, and similar drugs. It prohibits the importation and sale of prepared opium, and requires all other opium, whether raw or medicinal, as well as morphine, cocaine, and similar drugs, to be deposited in bond on importation, and only allows them to be withdrawn from bond on a written authority of the Surgeon-General and only by registered medical practitioners, registered dentists, or registered chemists and druggists.

Inscribed Stock.—Ordinance No. 31 enables the Government to raise loans in England by debentures or inscribed stock. It consolidates the provisions of two Ordinances passed for the same purpose in 1886 and 1897, which are repealed by this Ordinance.

1914.

[*Contributed by* The Hon. J. J. Nunan, K.C., LL.D., *Attorney-General of British Guiana.*]

Ordinances passed—33.

During the year thirty-three Ordinances were passed, two being in the nature of private Ordinances, the rest being public general Ordinances.

Bank-notes.—Ordinance No. 1 is to provide a general banking law for the colony and to regulate the issue of bank-notes by banking corporations or companies. Under the Ordinance the right of issuing notes will be confided to existing banks authorised by Ordinance, and to such banking companies or corporations as deposit security at par value for the amount issued. Notes must be of a minimum value of five dollars. The right of the Government to issue notes

[1] 1 & 2 Geo. V. c. 54.

is not interfered with. The Ordinance also enables the Royal Bank of Canada to issue notes on the same terms as the British Guiana Bank has hitherto done, subject to the matter being reconsidered after ten years. As the Royal Bank of Canada has purchased the assets of the British Guiana Bank, the Ordinance provides for the repeal of the special Ordinance of the latter Bank as from a date to be proclaimed by the Governor.

Customs Duties.—No. 4 is the usual Ordinance passed each year dealing with Customs Duties to be levied on goods imported into the Colony. It is for the financial year 1914–15. It was amended during the year by Ordinance No. 24 of 1914, which dealt principally with the application, as from May 1, 1914, of the Preferential Tariff under the Reciprocity Treaty with Canada to all British Possessions which are parties to the Canada-West Indies Convention or which may become parties thereto.

Taxes.—No. 5 is the Ordinance under which the inland revenue of the Colony, consisting of various taxes and licence duties, is raised. It was amended during the year by Ordinance No. 25 of 1914, which dealt with the stamp duties on the nominal capital, on the increase of registered capital, and on loan capital of companies incorporated in the Colony, and also defined the expression "loan capital."

British Guiana Constitution.—Ordinance No. 6 amends the British Guiana Constitution Ordinance 1891 in a number of particulars chiefly relating to elections. It creates polling areas corresponding to the number of polling stations for the different electoral districts, introduces the provisions of s. 14 of the Corrupt and Illegal Practices Prevention Act, 1883,[1] as regards the employment of hackney carriages at elections, and provides for security for costs with regard to election petitions as in the United Kingdom,[2] the amount, however, being reduced from £1,000 to $200, and further provides for a time limit within which election petitions may be brought, adopting the English periods.

Co-operative Credit Banks.—Ordinance No. 9 is to provide for the granting of State-aid to Co-operative Credit Banks and for the proper supervision of the same by a Central Committee. The end aimed at is the promotion of thrift and united action among the agricultural population of the Colony and the furtherance of agricultural prosperity.

[1] 46 & 47 Vict. c. 51. [2] 31 & 32 Vict. c. 125–6.

Plant Diseases and Pests.—Ordinance No. 12 provides for the treatment of diseases of plants and plant pests in the Colony. Owing to the prevalence of many diseases and pests among plants, notably the " bud rot " disease, which affects coco-nut trees to a very great extent; it has been deemed advisable to introduce legislation for the prevention and suppression of such diseases and pests.

District Lands Partition.—Ordinance No. 13 repeals the Village Lands (Partition) Ordinance, 1851, which has been found very difficult in its operation and limited in its scope. It provides for a simple method of partitioning undivided lands in any part of the Colony not included in the two Urban Sanitary Districts of Georgetown and New Amsterdam. On the petition of ten or one-third of the proprietors (and, in the case of a plantation having more than forty acres of cane, of those interested to the extent of more than half the value) the Governor in Council may order the land to be subject to the provisions of the Ordinance and appoint a Settlement Officer. After due advertisement and notice to the parties the Settlement Officer will investigate all claims and divide the land among those found entitled. An appeal to the Local Government Board may be made within one month. The finding of the Settlement Officer or of the Board will be final unless recourse is had to the Courts of law within three months. On the approval of their report by the Board the Settlement Officer will issue a statutory title to be recorded with the Registrar, and will be vested with the land for that purpose.

Revenue Defence Fund.—The Revenue Defence Fund Ordinance, 1868, was amended by the Revenue Defence Fund Ordinance, 1868, Amendment Ordinance, 1911, with the intention of allowing the fund to be used under the order and direction of the Governor, and at his discretion for the payment of all costs and expenses of whatsoever kind incurred in protecting the revenue. Owing to the non-repeal of the preamble of the principal Ordinance, doubts have been expressed whether the fund can be used except for the payment of legal expenses or of expenses *ejusdem generis* with those relating to legal assistance or rewards, and not in payment for general work required for the protection of the revenue.

The Combined Court, by Resolution No. 20 of March 4, 1914, sanctioned the application of the fund from time to time under the order and direction of the Governor at his discretion, as he may

see fit to secure the efficient protection of the revenue, and for the prevention, discovery, suppression and prosecution of offences against the Customs and Inland Revenue laws of the Colony, and generally to meet such expenditure as the Governor may certify to be desirable for the protection of the revenue, and approved of the Court of Policy being invited to pass an Ordinance further amending the Revenue Defence Fund Ordinance No. 4 of 1868, so as to allow the Revenue Defence Fund being freely used for the purpose of protecting the revenue, but providing that whenever the amount to the credit of the said fund at the close of any financial year exceeds $10,000, the excess above such sum shall be paid to the credit of the General Revenue. Ordinance No. 14 gives effect to the above resolution.

Town Council.—Ordinance No. 17 makes important changes in regard to the Georgetown Town Council. It gives effect to certain proposals of the Government for its better management and control in accordance with a scheme drawn up by the Attorney-General. Chiefly these are: (1) A reduction of elected Councillors by five, and a nomination of three Government members to provide for Government representation on the Council. Its constitution will now be nine elected and three Government members. (2) A change in the qualification of Councillors in respect of the possession of premises which now must be of the appraised value of $1,500 or upwards over and above the amount of any mortgage, and adds a further qualification in respect of the occupation of premises the rental value whereof is not less than $30 a month. (3) The repeal of certain penal clauses against members of the Council. It (4) deprives the Council of the power of appointing and dismissing certain officers, except with the approval of the Governor in Council. (5) Provides for the Council delegating the powers conferred upon it in regard to the maintenance of streets, stallings, etc. of the city, the discharge of any authority or obligation for the public health, the supply of water, etc., etc., to an Executive Committee of not more than five persons. This will ensure the better management of the sanitation of the City, the Council having the assistance of the Government expert advisers in the matter, as much difficulty has been found in the past in securing a uniform sanitary policy. (6) Deals with an audit of the Council's accounts by the Auditor-General. (7) Provides for the payment of interest on taxes unpaid for more than a month,

(8) Removes the control of the Fire Brigade and vests it in the Governor in Council, the cost of same to be equally borne, as before, by the Council and the Government.

Steamer Traffic. (No. 18)—This Ordinance is virtually a re-enactment of the Colonial Steamer Traffic Ordinance,[1] which controlled the traffic on the steam vessels worked under contract with the Colonial Government. It is proposed to leave to contract steamers practically all rights which they now possess under that Ordinance, and to give to Government steamers, which are to be known as Colonial Steamers, similar privileges.

Foodstuffs.—Ordinance No. 22, necessitated by extraordinary conditions, namely a state of war within the Empire, contains very stringent provisions as to the fixing of the price of foodstuffs, and supplies machinery for seeing that such prices are adhered to or not exceeded.

Official Designations.—Ordinance No. 23 changes the official designation of certain Government Offices. The Receiver-General is in future to be described as "Treasurer," the Colonial Civil Engineer as "Director of Public Works," the Assistant Colonial Civil Engineer as "Assistant Director of Public Works," the Inspector of Schools as "Director of Primary Education," and the Assistant Inspector of Schools as "Inspector of Schools."

Trading with the Enemy.—Ordinance No. 26 enacts for the Colony of British Guiana the provisions of the Trading with the Enemy Act, 1914, which received the sanction of His Majesty on September 18 last,[2] and which applies to the United Kingdom. The offence of trading with the enemy is now defined for the first time as a misdemeanour, and much milder penalties than those imposed by the English Act of 1794, which expired in 1802, are prescribed.

Trade Marks.—Ordinance No. 27 adopts the Trade Marks Act, 1905, of the Parliament of the United Kingdom, as there is at present no provision for the registration of trade marks in the Colony, although trade marks registered in England are protected.

Incest.—The introduction of the English Statute Law on the subject of incest appeared to be desirable, as this crime was not punishable under the existing Criminal Law of the Colony. The provisions of the Punishment of Incest Act, passed in England in

[1] No. 4 of 1885.

[2] See *supra*, p. 25.

1908,[1] have been adapted to the requirements of this Colony by Ordinance No. 29.

Lands Acquisition.—The Lands (Acquisition for Public Purposes) Ordinance, 1889, is restricted in character, so Ordinance No. 31 enables the Government to acquire lands on behalf of any public works, whether such works are to be constructed by the Government or otherwise. A speedy procedure is provided for the acquisition of land, and for the ascertainment of the amount of compensation. In matters of under $240 in value, the claim may be decided by a magistrate. In case the Public Work in question is a railway the Governor in Council may exercise any of the powers which a Company might exercise under certain sections of the Companies Clauses and Powers Consolidation Ordinance, 1846.

Quarantine.—Ordinance No. 33 is to give legislative effect to certain proposed amendments of the West Indian Intercolonial Sanitary Convention and Regulations which have been unanimously accepted by the parties to the Convention, and have been approved of by the Secretary of State. It is further to amend the provisions of the Quarantine Ordinance, 1911, with respect to the duties of the Harbour Master, who is replaced by a Visiting Officer.

Miscellaneous.—It will be seen that several Ordinances of first-class importance were passed during the year. Of the remaining Ordinances twelve either amend other Ordinances or deal with departmental arrangement of Government Departments. One (No. 20) abolishes the use of the old Dutch land measures, and makes the use of English measures compulsory, and another (No. 30) repeals the East Berbice Drainage Ordinances, 1903 and 1906, the district under them being now declared a Country District under the administration of the Local Government Board.

War.—Owing to the special circumstances of the Colony, remote from the seat of war and containing few enemy subjects, war legislation has been hitherto limited to the Foodstuffs and Trading with the Enemy Ordinances, 1914, supplemented early in 1915 by a Censorship Ordinance.

The most important feature of the year from the legal point of view was the appointment of a Statute Law Committee with the Attorney-General as Chairman to carry into effect the recommendations of the Common Law Commission in regard to the abolition of

[1] 8 Ed. VII. c. 45.

Roman-Dutch law in favour of English Law, and to recommend the English statutes which should be adopted to effectuate the change. The Committee presented a unanimous report in July 1915, and the scheme has since been under the consideration of the Government.

2. FALKLAND ISLANDS.

Ordinances passed—9.

Legislative Council.—Some doubts having arisen as to the validity of the appointment of two members of the Council, it was necessary to pass an Ordinance (No. 1) removing any question as to the validity of the proceedings during the period for which they voted, and to relieve the two members from any penalties to which they might have made themselves liable. An error in this Ordinance was corrected by its re-enactment with the alteration incorporated in No. 5.

Registration of Medical Practitioners, Midwives, and Dentists.—Under the direction of the Colonial Surgeon a register of medical practitioners, midwives, and dentists is provided by No. 3. Registration in the United Kingdom as medical practitioner or dentist entitles to registration in the Colony, and any one in actual practice in the Colony at the passing of the Ordinance is entitled to registration free of charge within three months after its coming into operation. A Board of Inquiry, consisting of the Colonial-Surgeon and two persons appointed by the Governor, has disciplinary authority in cases of professional misconduct.

Poisons.—No. 6 regulates the sale and use of poisons.

Pensions.—No. 8 is similar to Ordinances which have been passed elsewhere as to retired civil servants continuing to receive their pensions while holding directorships in the Colony.

Wild Birds.—The object of No. 9 is the preservation of penguins.

3. ST. HELENA.

Ordinances passed—6.

Wild Birds.—The export of the plumage or skins of non-edible birds is prohibited by No. 1.

Pensions.—No. 2 is similar to No. 8 of the Falkland Islands.[1]

[1] See *supra*.

Poor Relief.—No. 3 amends and consolidates the laws relating to the relief of the poor. The principal effect of this Ordinance is to establish the principle that properties belonging to the Crown, to the Colonial or Imperial Government, are not rateable, except when actually occupied by a tenant on payment of rent. The question as to the rateability of such properties had for long been the subject of much contention, and consequent litigation between the Colonial Government and the parish authorities. The Ordinance also provides for the payment by the Colonial Government of an annual contribution of £15 towards the relief of the poor, this sum being calculated on the average annual amount hitherto paid by the Colonial Government in rates assessed on its properties.

The Tax Amendment Ordinance, No. 4, provides that a fixed annual sum of £67 should be paid to the overseer of the poor for the benefit of the poor of the parish, in lieu of the dog tax, which under the principal Ordinance was payable yearly to the parish.

IX. NORTH AMERICA.

1. DOMINION OF CANADA.

[*Contributed by* A. H. F. Lefroy, Esq., K.C.]

First Session.

Acts passed—Public and General, 59 ; Local and Personal, 128.

The following are the statutes passed in the first session of the Dominion Parliament held in 1914 which require notice :

Weights and Measures.—The Weights and Measures Act (c. 4) amends the existing Act by providing that the basic units of the metric system shall be the International Metre and the International Kilogramme confirmed in the year 1889 by the first International Conference of Weights and Measures, and deposited at the International Bureau of Weights and Measures.

Fisheries.—The Fisheries Act (c. 8) is an important Act to consolidate and amend the Act respecting Fisheries and Fishing, regulating whale, cod, seal, salmon, lobster, oyster, and all other kinds of fishing throughout the Dominion, under penalties. The

regulation of fisheries and fishing within the Dominion was held by the Privy Council in what is known as the Fisheries Case[1] to be a matter exclusively within the power of the Dominion Parliament; and this Act now replaces the Act R.S.C. 1906, c. 45, which is repealed.

Phosphorus Poisoning.—The White Phosphorus Matches Act (c. 12) prohibits the manufacture, importation, and sale of matches made by white phosphorus on the ground, as stated in the preamble, that the use of white phosphorus in the manufacture of matches constitutes a menace to the health of match factory employees, and is also attended with danger to the community at large.

Maritime Conventions.—The Maritime Conventions Act (c. 13) is an Act to give effect in Canada to two conventions dealing respectively with collisions between vessels and with salvage which were signed by His Majesty at the conference held at Brussels in 1910; or, in other words, to give effect in Canada to the Imperial Maritime Conventions Act, 1911. The matters dealt with are the liability for loss in the event of collisions between vessels, and the duty of assisting vessels in distress, and apportionment of salvage.

Railways.—The Canadian Northern Railway Guarantee Act 1914 (c. 20) provides that the Dominion Government may aid the said railway company in completing its proposed transcontinental railway system by guaranteeing the bonds and debentures of the company to an amount not exceeding $45,000,000 upon receiving, among other securities, specific and floating mortgages or charges upon the undertaking of the railway company, and its properties, assets, rents, and revenues, and its rights, powers, and franchises, present and future. The Governor in Council may from time to time appoint a director of any or all the companies comprised in the Canadian Northern System, and in the event of default, and at any time while the same shall continue, may replace the then existing board of directors by directors of his own appointment.

Companies.—The Companies Act Amendment Act 1914 (No. 23) applies (s. 2) to Dominion Companies the provisions of s. 37 of the Companies (Consolidation) Act, 1908, of the United Kingdom, as to the issue and effect of share-warrants to bearer, substituting for the word "articles" in the Imperial Act the words "letters patent and supplementary letters patent." It also applies to Dominion

[1] [1898], A.C. 700.

Companies the provisions of ss. 103 and 104 of the same Imperial Act as to perpetual debentures, and the power to reissue redeemed debentures in certain cases.

The Loan Companies Act, 1914 (No. 40), gives Dominion Loan Companies an Act all to themselves. Hitherto regulations regarding Dominion Loan companies have been embodied in certain sections of the general Dominion Companies Act. These companies are henceforth to be incorporated, not by letters patent, but by Act on the model set out in the schedule. A more important innovation, however, in the new Act relates to the borrowing power of these companies—a matter of interest to actual or possible depositors and bond-holders of such companies. The old provision was that "the total amount of the company's liabilities to the public outstanding, from time to time, shall not exceed four times the amount paid up upon its capital stock." The new Act provides (s. 68) that "the aggregate of the sums of money borrowed by the company shall not exceed *four times the combined amounts* of its then actually paid up and unimpaired capital stock and reserve." The incorporation of loan companies is not a matter exclusively within the power of the Dominion Parliament, although of course it alone can incorporate a loan company with power to do business in more than one province. Provincial legislatures can incorporate loan companies with provincial objects. The provision as to the amount such a company may borrow in Ontario [1] is that "the aggregate amount of its total borrowings shall not at any time exceed the amount of the principal moneys remaining unpaid on securities then held by the corporation, or, in the alternative, the amount of the reserve fund of the corporation, and four times the amount of its then actually paid in and unimpaired permanent capital."

The Trust Companies Act, 1914 (No. 55), gives trust companies a statute of their own, just as No. 40, already referred to, gives loan companies. Hitherto they too came under the general Dominion Companies Act.[2] Henceforth Trust Companies are to be incorporated, not by letters patent, but by Act in the form set out in the schedule, with the powers set out in this Act, which provides for the organisation and operations of such companies. As with loan companies, so with trust companies, the provincial legislatures can also incorporate and regulate them where they have provincial

[1] R.S.O. c 184, s. 41.

[2] R.S.C. 1906, c. 79.

objects only. By this Act (s. 68) Dominion trust companies may borrow " for the purpose of carrying out the objects and powers of the company, and for no other purpose, up to five times the amount of the company's unimpaired paid-up capital and reserve."

Advertisements.—An Act to amend the Criminal Code (No. 24) adds the following useful section : " Every person who knowingly publishes or causes to be published any advertisement for either directly or indirectly promoting the sale or disposal of any real or personal movable or immovable property, or any interest therein, containing any false statement or false representation which is of a character likely to or is intended to enhance the price or value of such property, or any interest therein, or to promote the sale or disposal thereof, shall be liable upon summary conviction to a fine not exceeding $200 or to six months' imprisonment, or to both fine and imprisonment." It might, perhaps, have been better if mining shares had been expressly mentioned. The provision, however, that shares of companies shall be " personal estate " is generally contained in Canadian Companies Acts.

Explosives.—The Explosives Act (No. 31), as its title imports, is an Act to regulate the manufacture, testing, storage, and importation of explosives, and provides (*inter alia*) that no one shall manufacture, either wholly or in part, or store explosives except in factories and magazines licensed by the Minister of Mines, or such Minister as the Governor in Council may designate to administer the Act ; and that no one shall have in his possession, or import, store, use, or manufacture, whether wholly or in part, or sell, any explosive unless such explosive has been declared by the Minister to be an authorised explosive ; but this is not to apply to the making of a small quantity of explosive for the purpose of chemical experiment, and not for practical use or sale. It also provides that the Governor in Council may appoint inspectors of explosives, and make direct inquiries by a commissioner into accidental explosions.

Naturalisation.—An Act respecting British Naturalisation and Aliens (No. 44) is a re-enactment by the Dominion of the provisions of the British Nationality and Status of Aliens Act, 1914, with the necessary ancillary provisions.

Constitution.—The Representation Act, 1914 (No. 51), embodies a readjustment of the representation in the House of Commons at Ottawa according to the results of the census of 1911, as required by

the provisions of the British North America Act, 1867. The House of Commons under it will consist of 234 members.

Fenian Raid.—The Fenian Raid Volunteer Bounty Act, 1914 (No. 56), is of interest from its object, which is to make further provision for bounties to volunteers who served the Crown during the Fenian Raids of 1866.

Second Session.

Acts passed—8.

In a second session of the Dominion Parliament which commenced on August 18 and closed by prorogation on August 22, 1914, the following statutes were passed:

Emergency Legislation.—The War Appropriation Act, 1914 (No. 1), directs that out of the Consolidated Revenue Fund there be paid and applied beyond the ordinary grants of Parliament a sum not exceeding $50,000,000 towards defraying any expenses that may be incurred by or under the authority of the Governor in Council during the year ending March 31, 1915, for (*a*) the defence and security of Canada; (*b*) the conduct of naval and military operations in or beyond Canada; (*c*) promoting the continuance of trade, industry, and business communications, whether by means of insurance or indemnity against war risk or otherwise; and (*d*) the carrying out of any measures deemed necessary or advisable by the Governor in Council in consequence of the existence of a state of war.

The War Measure Act, 1914 (No. 2), which may be said to be the Canadian "Defence of the Realm Act," declares that war has continuously existed since August 4, 1914, and shall be deemed to exist until the Governor in Council by proclamation declares that it no longer exists; and empowers the Governor in Council to do and authorise such acts and things, and make such orders and regulations, as he may by reason of the existence of real or apprehended war, invasion, or insurrection deem necessary or advisable for the security, defence, peace, order, and welfare of Canada, and for greater certainty it names certain classes of subjects to which the powers of the Governor in Council are to extend, *e.g.* censorship, arrest, detention, exclusion, and deportation, control of harbours and ports, trading, exportation, importation, production, and manufacture; appropriation, control, forfeiture, and disposition of property and

of the use thereof. All claims of compensation for property taken are to be referred to the Exchequer Court, or to a Superior or County Court of the province within which the claim arises.

The Finance Act, 1914 (No. 3), confirms certain Orders in Council passed in August last, which authorised advances to the chartered banks in the form of an issue of Dominion notes against deposits by the banks of securities with the Minister of Finance, such advances to be repayable with interest not later than May 1, 1915; and authorised the chartered banks to make payment in bank-notes instead of gold or Dominion notes, and to issue, until further announcement, excess circulation to amounts not exceeding 15 per cent. of the combined unimpaired capital and rest or reserve fund of the respective banks; and suspending the redeeming in specie of Dominion notes. The Act further authorises the Governor in Council, by proclamation, to authorise the continuance of similar relief to the banks "in case of war, invasion, riot, or insurrection, real or apprehended, and in case of real or apprehended financial crises."

The Dominion Notes Act, 1914 (No. 4), is closely connected with the last statute noticed. It provides that Dominion notes may be issued and outstanding at any time to any amount, and that "such notes shall be a legal tender in every part of Canada, except at the offices at which they are redeemable"; but that the Minister of Finance shall always hold as security for the redemption of Dominion notes up to and including $50,000,000, issued and outstanding at any one time, an amount equal to not less than 25 per centum of the amount of such notes in gold; and as security for the redemption of Dominion notes issued in excess of $50,000,000 the Minister shall hold an amount in gold equal to such excess.

Naturalisation.—An Act to amend the Naturalisation Act, 1914 (No. 7), reciting that by the Naturalisation Act, 1914, which has already been noticed, the Dominion of Canada adopted Part II. of the British Nationality and Status of Aliens Act, 1914, passed by the Parliament of the United Kingdom, and that amendments were made in Parts II. and III. of the said Act, while it was being passed by the Parliament of the United Kingdom, and that it is desirable that corresponding amendments be made in the Naturalisation Act, 1914 then proceeds to make the necessary amendments to ss. 5, 2, 10 and para. (*b*) of s. 25 of the latter statute.

Miscellaneous.—The three remaining statutes of this second session of 1914 make certain changes in the customs tariff, in respect to duties of excise, and incorporate a Canadian Patriotic Fund, with H.R.H. the Governor-General at the head, to provide for the collection and the administration of a fund now being raised "for the assistance, in case of need, of the wives, children, and dependent relatives of officers and men, residents of Canada, who, during the present war, may be on active service with the naval and military forces of the British Empire and Great Britain's Allies."

2. ALBERTA.

Acts passed—Public, 29; Local and Personal, 24.

Land Tax.—The Wild Lands Tax Act (No. 3) imposes a tax in the nature of the undeveloped land tax of the United Kingdom upon all land up to the rate of 1 per cent. of its assessed value with a minimum payment of 1 dollar. The comprehensive exemptions limit the Act in effect to undeveloped land.

Succession Duties.—Previous legislation relating to succession duties is repealed so that the whole law on the subject is contained in No. 5. In the procedure upon assessment the Provincial Treasurer is authorised to appoint a commissioner with compulsory powers of inquiry if he is not satisfied with the sworn valuations.

Villages.—No. 8 makes numerous amendments in the local government law. When a village contains over 700 inhabitants it may be erected into a town municipality.

Education.—No. 12 amends the educational tax act. No. 13 amends the School Ordinance, the School Assessment Ordinance, the School Grants Act, and the Truancy Act. No. 14 makes a further amendment in the School Grants Act by giving the Minister of Education power to purchase books for school library purposes and school supplies, and to sell the same to school districts or teachers, or supply the same to school libraries.

Taxation.—Persons "holding or operating" timber areas are required to pay to the Minister of Municipal Affairs a tax of 2½ cents for every acre of land comprising such timber area: provided, that every proprietor shall pay a minimum tax of 25 dollars.

If timber is being cut for the use of settlers a rebate may be allowed to the amount of not more than 1½ cents per acre.

Patriotic Fund.—The remuneration of any person, "other than a manual labourer temporarily employed by the day" for services rendered to the Province is subject by No. 16 to a deduction of 5 per cent. up to 125 dollars in any month, and to a deduction of 10 per cent. on the excess of all payments over 125 dollars in any month as a contribution to the Patriotic Fund.

Travelling Shows.—By No. 18 a licence is required for any menagerie, circus, wild west show, trained animal show, or show of any kind. Every constable has access free of all charge to any such show, and also to every horse-race, agricultural, horticultural, or industrial exhibition, ball-game, theatre, or public gathering during the hours the public are admitted thereto.

3. BRITISH COLUMBIA.

[*Contributed by* E. C. MAYERS, ESQ.]

Acts passed—97; Public, 83; Private, 14.

The three most important Acts passed at the Session in 1914 were the Water Act, the Municipal Act and the Trust Companies Act.

From a very early period in the history of the Province a policy has been pursued of preventing rights in waters and water-courses being permanently acquired and held in private ownership; a long series of statutes has whittled away the rights of the riparian owners, and this process appears to have reached its culmination in the Act now to be considered.

Waters.—The "Water Act," No. 81, provides by s. 4 that, saving the right of every riparian proprietor to the use of water for domestic purposes, the right to the use of any unrecorded water is declared to be vested in the Crown in the right of the Province; and, saving in the exercise of any legal right existing at the time of such diversion or appropriation, no person shall divert any water except under the provisions of this or some former Act. S. 5 provides that no right to the permanent diversion or to the exclusive use of any water shall be acquired by any riparian owner or by

any other person by length of use or otherwise than as the same may have been acquired or conferred under some former Act, or by licence under this Act. By s. 6 every riparian proprietor claiming any right to divert water or to the exclusive use of water for any purpose by virtue only of his being such riparian proprietor must file a claim with the Board of Investigation set up under the Act on or before June 1, 1916, and after that date no right to divert water or to the exclusive use of water for any purpose shall exist by virtue only of any riparian ownership of land, and no claim therefor shall be entertained, saving only the general right of the public to the temporary use for domestic purposes of water to which there is lawful access.

Having thus prevented the acquiring of any rights in waters other than under the Act, provisions are made for obtaining the rights given by the Act.

The various uses to which water can be put are divided into a series of "purposes" classified according as they are considered to be more or less in the public interest; the classes in order of esteem are:

Domestic purpose; waterworks purpose; mineral-trading purpose; irrigation purpose; mining purpose; steam purpose; fluming purpose; hydraulicking purpose; miscellaneous purpose; power purpose; clearing streams purpose; storage purpose; conveying purpose; and lowering-water purpose.

These are defined as follows (s. 3):

"Domestic purpose" means household, sanitary, and fire-protection requirements, the watering of cattle and poultry, and the irrigation of any garden not exceeding one-half an acre adjoining and occupied with any dwelling-house.

"Waterworks purpose" means the supply of water by a municipality or company to any municipality or unincorporated locality for "domestic purpose" as herein defined, and, within the boundaries of any such municipality or unincorporated locality, the supply of water to railways, manufacturers, and others for industrial or business use.

"Mineral-trading purpose" means the sale, barter, or exchange of water in bottles or other containers, or the utilisation of mineral waters.

"Irrigation purpose," means the beneficial use of water on arable lands and meadows for nourishing crops.

"Mining purpose" means the use of water in connection with a mine, whether by hydraulicking or otherwise, but shall not include the use of

water in the generation of power, except where such is an incidental one and is especially mentioned in the licence.

"Steam purpose" means the use of water in the production of steam.

"Fluming purpose" means the use of water for the fluming of logs, shingle-bolts, and other timber products.

"Hydraulicking purpose" means the use of water under head to move earth, and gravel, or rock with the object of filling, levelling, or excavating, or for washing gravel or coal, except in connection with mining operations.

"Miscellaneous purpose" means the use of water for any purpose other than those heretofore or hereinafter set out.

"Power purpose" means the use of water in the development of power.

"Clearing-streams purpose" means clearing and improving streams for driving, booming, or rafting logs.

"Storage purpose" means the storing and conserving of water which is to be used beneficially for any of the purposes herein named.

"Conveying purpose" means the carriage and distribution of water for licensees by a company or body corporate.

"Lowering-water purpose" means and shall include the lowering of the low-water level of any standing body of water with the object only of reducing the same.

The procedure to acquire rights in water is by way of application, and the applications are again classified into three classes, according as they are for the use of water for one or the other of the purposes aforesaid: "Class A" means any application or licence for "domestic," "mineral-trading," or "steam purpose"; or for "mining" or "miscellaneous purpose" where the water is to be used in quantities not exceeding 100,000 gallons per day; or for "irrigation purpose" where the acreage to be irrigated does not exceed 640 acres; or for "power purpose" where the power to be developed does not exceed 100 horse-power and is to be used by the applicant only: provided that, if in the opinion of the Comptroller the nature of the works intended is such as to require the submission of detail plans, he may place any application which might come within the foregoing classification into "Class B" notwithstanding the foregoing limitations.

"Class B" means any application or licence for "mining" or "miscellaneous purpose" where the water is to be used in quantities exceeding 100,000 gallons per day; for "irrigation purpose" where the acreage to be irrigated exceeds 640 acres; or for "storage" or

"hydraulicking" or "fluming purpose" where the water is to be used by the applicant only; or for "power purpose" where the power to be developed exceeds 100 horse-power and is to be used by the applicant only; or for "lowering-water purpose": provided that, if in the opinion of the Comptroller the nature of the works is such as not to require the submission of detail plans, he may place any application or licence which might come within the above classification under "Class A," notwithstanding the foregoing limitations.

"Class C" means an application or licence for "waterworks purpose"; or for "power," "hydraulicking," or "fluming purpose," where tolls are to be charged; or for "clearing streams" or "conveying purpose."

The procedure on applications is divided into a series of steps; by s. 70 the applicant must post certain notices, and by s. 71 must file and serve copies thereof; s. 72 provides for advertisement, and s. 73 for the filing in the office of the Water Recorder of his application with the prescribed sketch; by s. 75 the Comptroller of Water Rights has power to call for additional information, and by s. 76 the fee upon application must be paid; by s. 77 provision is made for the filing of objections by any party interested and for the hearing of such objections before the Comptroller; by s. 78 the Comptroller is given power to make his decision upon the application, and in the case of applications under "Class A" he may issue a final licence to the applicant to divert and use the waters applied for.

In the case of "Class B" and "Class C," however, further steps have to be taken; in the case of "Class C" s. 79 provides for a petition to the Minister of Lands embodying a great variety of particulars, and after the hearing of the petition the Minister may issue his certificate (s. 82), whereupon the Comptroller may issue the authorisation to make surveys (s. 86); by s. 87 provision is made, in the case of applications of "Classes B and C," for the making of surveys, and by s. 91 upon the approval of the surveys, the Comptroller may issue a conditional licence; ss. 92 to 116 make provision for the obtaining by the applicant of the lands required for his undertaking, and embodying the usual provisions for compulsory purchase and the ascertainment of the compensation by arbitration: by s. 117 the applicant is compelled to prove the completion of the works sanctioned and the putting of the waters applied for to the

beneficial use specified in the conditional licence within sixty days from the date fixed in that licence for the completion of the works, and by s. 118 when the applicant has satisfactorily given such proof he is entitled to the issue of a final licence enabling him to divert and use the waters for the purpose or purposes applied for. In accordance with a growing tendency to vest irresponsible power in government officials, the Comptroller of Water Rights is empowered by s. 7 to discriminate between the varying utilities of the purposes for which applications are made, and to accord the preference to such application as he considers to be most in the public interest.

SS. 13 and 14 prescribe that every licence is to be appurtenant to the land or mine or undertaking to which it is attached, and provide for the transfer of privileges and the assignments of licences with or apart from the undertaking to which they were appurtenant, and ss. 15, 16, 17, 18, and 19 give power to revoke and cancel licences for non-user or other causes.

Part III. of the Act defines the rights and obligations of licensees with regard especially to changes in the point of diversion, to the apportionment of the waters between two or more parties and the land on which it is used, to the mingling of waters under two or more licences, to the maintenance of the works by the licensees, and headgates, structures, and measurement of water.

S. 46 enables an Indian Agent to acquire by licence the right to divert water in trust for the Indians under his jurisdiction.

Part IV. deals with the organisation and administration of the Water Department, providing for the appointment of a Comptroller of Water Rights, a Board of Investigation, Engineers and Water Recorders.

SS. 49, 50, and 51 deal with the appeals from the various officials. By s. 51 an appeal from the Engineer lies to the Comptroller, and from the Comptroller to the Minister of Lands. Appeals from the Board of Investigation lie to the Minister of Lands, and it is only in the case of orders of the Board of Investigation respecting the direction to issue licences, to replace records, or the amendment or cancellation of licences or any order affecting the validity of a licence that an appeal lies to the Court of Appeal of the Province.

Part VII. provides for the incorporation of several new kinds of companies and associations for the storage and distribution of water; these include what the Act calls "Water-users' Communities," con-

sisting of two or more licensees desiring to join together in constructing, maintaining, or operating works, and which may be either a partnership or a limited liability company (s. 160). In addition the Act provides for the formation of Mutual Water Companies (s. 161); Land and Water Companies (s. 165); Public Irrigation Corporations (s. 172), which last is an entirely new creation of the Act, and is the subject of a long string of extremely intricate and complicated provisions. The objects of incorporation are set out in s. 173 as follows:

> When ten or more owners of land in any locality in the province where the lands can be irrigated advantageously from a common source or sources of supply and through a common system or systems desire to co-operate in acquiring, constructing, maintaining, and (or) operating works for the storage, carriage, and (or) distribution of water which is to be used for irrigation or for irrigation and domestic purposes on the said lands, they may petition the Lieutenant-Governor in Council for incorporation under this Division as hereinafter provided.

By s. 183 the inhabitants of the locality are empowered to determine by vote whether the corporation shall be established and who shall be its first trustees; by s. 201 provision is made for the qualifications and terms of office of those holding office in the corporation, and by ss. 209 *et seq.* the powers and duties of the trustees are defined; the powers of the Company are exercised by by-law which, in certain instances, must be approved by the electors (ss. 229 *et seq.*) and by s. 240 provision is made for applications in the Supreme Court of the Province to quash any by-law, order, or resolution; ss. 243 *et seq.* give power to borrow on the security of debentures, and ss. 250 *et seq.* prescribe the methods in and the purposes for which moneys so borrowed are to be expended; ss. 259 *et seq.* give power to the trustees to levy rates and taxes, and make the usual provisions for assessment, revision, appeals, levying and collection, and the sale of lands for arrears of taxes.

Part VIII. confirms the constitution of the Board of Investigation set up under former Acts and deals with the powers vested in it, which consist in hearing and adjudicating upon the claims of all persons holding or claiming to hold Records of Water, and of other claims and rights to the use of water under any other former Act or Ordinance.

Lands within the Railway Belt—that is to say, the lands granted by the Crown in right of the Province of the Crown in right of the Dominion under chap. xiv. of the Statutes of British Columbia of 1884—are, of course, not subject to the legislative authority of the Legislative Assembly of this Province, but by an Order in Council the former Act has been extended to apply to the lands in the Railway Belt, and s. 302 of the present Act, which is the repealing section, expressly provides that the section shall not be held to repeal the former Acts in so far as they apply to the Railway Belt until the present Act is proclaimed by Order in Council to be in force in the Railway Belt.

Municipal Corporations.—In this Province municipalities are incorporated by letters-patent issued under the provisions of the Municipalities Incorporation Act, R.S.B.C., chap. clxxii.; all the powers and duties of municipalities are, however, defined in a general Act applying to all such municipalities as have been or may be incorporated. Certain of the municipalities within the Province, such as Vancouver, have, however, their own private and special Act. The present Act (No. 52) is divided into twenty-three parts relating to the following subjects: Part I. Government and Procedure; II. Powers required to be exercised by By-law; III. Powers exercised by Resolution or by By-law; IV. Powers exercised by Resolution; V. Restriction on the granting of privileges; VI. The Voting on, Authentication, Quashing, and Repeal of By-laws; VII. Imposition of Special Rates; VIII. Taxation; IX. Regulation of Liquor Licences; X. Highways; XI. Public Parks; XII. Ferries between Municipalities; XIII. Leases and Mortgages; XIV. Egress from Public Buildings; XV. Compensation for Expropriated Property; XVI. Accounts and Audit; XVII. Magistrates and Police; XVIII. Administration of Justice; XIX. Executions against Municipalities; XX. Provisions referring to certain Municipalities only; XXI. Board of Control; XXII. Inspection of Municipalities; XXIII. Miscellaneous.

Municipalities are divided into City and District Municipalities, and Part I. provides for their government by a mayor in the case of a city and a reeve in the case of district municipalities, assisted in each case by a council. The remaining sections in this part define the qualifications for mayor, reeve, and councillors, the powers and duties of mayors and reeves, the division of municipalities into wards,

the meetings and procedure of municipal councils and their committees and the appointment of the municipal officers.

Part II. contains a most exhaustive list of powers conferred upon the Councils which may be exercised by by-law; these powers may be roughly classified under the following heads: the appointment of Officers and the fixing of their Salaries; Aids, Bonuses, and Exemptions of Industries; acquiring and dealing with Waterworks and works for Electric Light, Tramways, Street Railways, Ferry, Gasworks, Electric-lighting Plants, and Telephone Systems; making Agreements with Electric Light and Telephone Companies; installation of Irrigation Works; Aids to Educational and Charitable Institutions; regulations relating to Animals, Buildings, Cemeteries, Fences, Dykes, and Drains; regulations for the Prevention of Fire, for the Consolidation of Debt; the making provision for the Inspection of Food and other matters of Public Health; for regulating Companies supplying Matters of Public Convenience, such as gas, electric light, telephone and telegraph and water companies; for the licensing of certain Trades; Lodging-houses; the Removal of Nuisances, and for the regulation of Sewerage and Drainage; provisions for holding a Referendum; provisions regarding the Establishment and Maintenance of Streets and the regulation of Traffic; the Establishment of Nursing Homes and Infant Homes and Detention Homes and for reviving the Institution of the Curfew.

The latter half of Part II., from s. 96 onwards, gives power to the Councils to borrow money, and limits and restricts that power. No municipal Council may incur any liability beyond the municipal revenue for the current year without the approval of the rate-payers; three methods are prescribed for the borrowing of money by the municipalities; the Council may pass a by-law for contracting debts on complying with the stringent provisions contained in ss. 97 *et seq.*, and every such by-law must be submitted to and approved by a majority of the rate-payers; by the proviso to s. 96 a Municipal Council is empowered, without the approval of the rate-payers, to borrow money on the security of debentures which have been duly authorised to be issued, but which have not yet been sold; by s. 134 the Council is empowered to anticipate the current revenue by borrowing sufficient to meet the current lawful expenditure of the corporation on the terms of repaying the amount so borrowed

before December 31 in the year in which the money is so borrowed; special provisions are enacted for the borrowing of money on the security of water, gas, sewer, and electric-lights rates (ss. 102 and 103), and also for the borrowing of moneys for the purpose of draining and dyking (ss. 104 *et seq.*); by ss. 135 *et seq.* the Council are given power to issue debentures or stock.

Parts III. and IV. deal with the relatively insignificant matters upon which the Municipal Council can legislate by resolution or by-law.

Part V. prohibits the Council from granting any particular privilege, immunity, or exemption without the consent of the ratepayers.

Part VI. contains full provisions for voting on by-laws, their authentication, quashing, and repeal.

Part VIII. contains a code on the subject of taxation, dealing with the subjects of taxation, exemptions (s. 197), valuation of property (s. 199), the preparation of the assessment roll (ss. 205 *et seq.*), Court of Revision (ss. 214 *et seq.*), appeals from the Court of Revision (ss. 228 *et seq.*), the duties of the collector (ss. 236 *et seq.*), and the collection of taxes in arrear by sale (ss. 246 *et seq.*), or by action (s. 275); the party liable for the taxes is given a year to redeem (ss. 266 *et seq.*) and by s. 271 a short period of limitation is prescribed for bringing any action to impugn the validity of the sale and the conveyance given in pursuance thereof by the municipality. The last division in Part VIII. gives power to the municipalities to collect licence fees from almost every species of human activity carried on within the boundaries of the municipality.

Part IX. contains the provisions with regard to liquor licences and the Board of Licence Commissioners.

The effect of this part is practically to prevent the creation of any fresh licences, and to reduce all existing licences to merely temporary permits granted at the will of the Board Licence Commissioners; no new licences can be issued except upon petition of the resident householders and their wives (ss. 310 *et seq.*) except in the case of a hotel containing not less than thirty rooms (s. 313).

Part X. defines the duties of the municipalities with regard to highways and inter-municipal highways and bridges, and s. 332 vests the possession of every public road, street, etc., in the municipality; but notwithstanding this section it has recently been held in

this Province that a municipality cannot sue to restrain a public nuisance without joining the Attorney-General.

Part XV. contains a code on the subject of compulsory purchase by the municipalities containing the usual provisions for arbitration.

Part XVI. deals with the accounts and their audit, and Part XVII. with Magistrates and Police.

Part XIX. makes provision for the levying of execution upon municipalities. No writ of execution against a municipality can issue without the leave of a Judge of the Supreme Court, and the writ is carried out by the sheriff levying the amount by rate (ss. 427 *et seq.*).

Part XXI. contains provision for a new experiment [1] in municipal government by providing that any municipality having a population of 15,000 or more may submit the business of the municipality to the management of a Board of Control composed of the mayor or reeve, and two comptrollers to be nominated and elected from the municipality at large, thereby taking the place of the Council.

By Part XXII. a new official, called "The Inspector of Municipalities," is brought into existence; s. 474 empowers the Inspector to hold public inquiries and make orders in respect to municipal affairs and gives him all the powers of a Commissioner under the Public Inquiries Act. By ss. 476 *et seq.* a remedy is applied to the uncertainty attendant upon the validity of municipal by-laws, and power is given to the Council of any municipality to obtain a certificate from the Inspector of Municipalities approving any by-law for the raising of money or the imposing of a special assessment or a special rate, and the production of such certificate shall be conclusive evidence in all courts and places, and for all purposes whatsoever that the by-law, debenture, stock, or treasury certificate described in and covered by the certificate has been lawfully and validly made and issued, and that all statutory and other requirements have been complied with, and every by-law, debenture, stock, or treasury certificate so approved is declared to be immune from attack in any action in any of the Courts of the Province.

Trust Companies.—No. 13 was passed in consequence of the scandals attending the liquidation of certain of the Trust Companies in the Province. The Act is divided into nine parts relating to the following subjects: Part I. Incorporation of Trust Companies; II.

[1] Cf. United States Legislation, *infra*, p. 285.

Registration of Trust Companies; III. Deposit with Government; IV. Management and Investment of Trust Funds; V. Management and Investment of Moneys received on Deposit; VI. Management and Investment of Company's Funds; VII. Annual Reports; VIII. Inspection of Trust Companies; IX. General Provisions.

The general scheme of the Act is to separate Companies doing what the Act defines as "trust business" from the ordinary trading or joint stock company. No Trust Company can be incorporated without the approval of the Inspector of Trust Companies, a new officer created for the purpose (s. 13); the borrowing powers of such Companies are restricted (s. 22); no Company, whether provincial or extra-provincial, may commence or carry on trust business unless registered under the Act (s. 24) and the applicant for incorporation must prove its solvency to the satisfaction of the Inspector (s. 28).

The most important provisions are those contained in Part III. compelling the Company to deposit with the Minister of Finance and Agriculture a sum of not less than $25,000,000 nor more than $200,000,000 for the purpose of securing the Company's obligations (s. 39).

Part IV. contains stringent provisions as to the management and investment of trust funds which are freed from liability for the debts of the Company and restricted as to their method of investment (ss. 40 and 41).

Moneys received on deposit are to be kept separate from other moneys of the Company (s. 42), and a reserve equal to 25 per cent. of the deposits payable on demand is to be maintained by the Company (s. 43). The moneys so received on deposit can only be invested in certain securities approved by the Lieutenant-Governor in Council (s. 44). The capital or reserve or accumulated profits of the Company may be invested in securities prescribed by law for the investment of trust moneys, on the security of real property, or on the security of the capital stock of any chartered Bank in the Dominion, or on the security of the debentures or stock of any municipal corporation in Canada, or on such other securities as may be approved by the Lieutenant-Governor in Council (s. 48), and investments of any other kind are prohibited (s. 49); loans to directors are prohibited, and the amount of loans to any one person is limited (ss. 50 and 51).

Annual Reports have to be prepared and submitted to the In-

spector (ss. 55 and 56) and by Part VIII. stringent provisions are made for the inspection of Trust Companies and for the suspension or cancellation of their registration upon default being found in the conduct of their business.

No Trust Company may open a branch office or agency in the Province without the approval of the Inspector first had and obtained (s. 68). No Company may issue any note payable to bearer, or engage in any business pertaining to banking or insurance (s. 71); no Company may use a name which includes any of the words "trust," "trustee," or "trusts" without being registered under the Act (s. 75); the qualifications of directors are fixed (s. 79) and failure to qualify causes the vacation of the office; the majority of the directors must be resident in the Province and be British subjects by birth or naturalisation.

The other statutes of more than local or private interest are the following:

Agricultural Associations.—The Agricultural Associations Act (No. 1), establishing co-operative associations for the promotion of all kinds of agrarian interests; this Act has been repealed, and its provisions incorporated in the Agricultural Act, 1915.

Bills of Sale.—The Bills of Sale Act Amendment Act (No. 5), enforcing the registration as a bill of sale of all mortgages and charges, specific or floating, of personalty created by corporations other than railway companies. This is a misconceived piece of legislation, inasmuch as these mortgages and charges have already to be filed with the Registrar of Joint Stock Companies, and the affidavits required by the present Act are wholly unsuited to such instruments as debentures and indeed cannot be truthfully made.

Cattle Brands.—The Brand Act (No. 9) creates a new kind of incorporeal property in the shape of cattle brands; any letter, sign, numeral, or combination of the same may be submitted for the approval of the Minister of Agriculture, and when approved and until cancellation the owner thereof has the exclusive right to the use thereof, and during such period the mark of the brand upon any horse or head of cattle is *prima facie* evidence in any Court of the ownership of such animal. The allotment of brands by the Minister lasts during four years, and may be indefinitely renewed for periods of four years. Provision is made for the record and transfer of

brands and the inspection thereof. East of the Cascade Mountains no railway company may receive for carriage any live stock unless the skipper deposits a certificate of the Inspector of Brands showing the number of live stock and containing a full description of the brands (s. 22).

Communities.—The Community Regulation Act (No. 11) is directed to securing a proper registration of births and deaths, and the enforcement of the Health Act, among the Doukhobors.

Companies.—The Companies Act Amendment Act (No. 12) contains a number of amending sections, providing for the payment of wages, salaries, taxes, etc., out of assets subject to a floating charge, of which a receiver has been appointed (s. 11), the conversion of a private into a public Company (s. 13), the withdrawal of privileges from a private Company which has infringed the special regulations relating to private companies (s. 14), and certain changes in the licensing and registration of extra-provincial companies (ss. 14 *et seq.*).

Forests.—The Forest Act Amendment Act (No. 32) makes provisions for the renewal of pulp leases (s. 9), the survey of timber limits (s. 11), and a graded tax upon all timber cut (s. 15) ; no timber is to be rafted upon the salt or fresh waters of the Province unless it bears a mark registered under the Act (Part IX.).

Game.—The Game Act (No. 33) contains a comprehensive code for the regulation of hunting in the Province.

Land Registry.—The Land Registry Amendment Act (No. 43), which has become an annual feature of provincial legislation, contains a number of minute and vexatious provisions, all tending to make the system of land registry the reverse of simple, cheap, and expeditious, characteristics which were declared essential to such a system by the first Chief Justice, Sir Matthew Begbie.

Radium.—The Radium Act (No. 60) empowers the Lieutenant-Governor to pay a reward of $5000.00 to the first discoverer of radium, and to make regulations for the exploration, occupation, and purchase of radium-bearing lands.

Timber Royalty.—The Timber Royalty Act (No. 76) establishes a sliding scale for royalties on timber cut upon Crown Lands.

4. MANITOBA.

Acts passed—132.

Architects.—By No. 4 the Manitoba Association of Architects is constituted "to promote and increase, by all lawful means, the knowledge, skill, and proficiency of its members in all things relating to the profession of an architect." It consists of all the architects in the Province who are registered, and has disciplinary authority over its members. No person or firm may practise as or style himself an architect unless he is a member of the association.

Hospitals.—By an amendment (No. 18) of the Charity Aid Act municipalities may attach moneys owing to "public ward patients." Employers are required to retain moneys owing to injured employees for fifteen days. In the event of death, the employer liable under the Workmen's Compensation Act may be called upon to pay for the hospital cost of treatment and the expenses of the funeral up to $200. The amount may be set off against payments required to be made under the Act.

Children.—Various amendments are made in the Children's Act by No. 19. Teachers are required to report children who do not attend school regularly in order that inquiry may be made by probation and truant officers and the Superintendent of Neglected Children. Children between the ages of seven and fourteen may not be employed in term time except with a written permit obtained from a Judge, or superintendent of neglected children or truant officer. No. 85 authorises the Minister of Education to take a census of the children of school age.

Election Petitions.—The law on the subject of controverted elections is contained in No. 25, which repeals previous legislation.

Bees.—No. 39 authorises the appointment of inspectors of aviaries with a view to the suppression of foul brood among bees.

Garages.—By No. 41 a garage-keeper is given a lien for a debt for stabling or caring for a motor-vehicle, provided that an agreement "setting forth in detail the rates at which care, attendance, or accommodation is to be furnished" has been made in writing.

Highways.—No. 42 extends previous legislation by which the provision of "good roads" is entrusted to a "Good Roads Board" working upon similar lines to the Road Board in the United Kingdom.

Horse-breeding.—The legislation in respect to horse-breeding is contained in No. 50, repealing previous laws. Stallions are enrolled under the direction of the Minister of Agriculture.

Housing.—Local authorities are authorised by No. 57 to assist companies engaged in erecting "dwelling-houses of moderate size and improvements and conveniences, to be rented at moderate rents" by guaranteeing their securities so as to enable them to raise money.

Hail Insurance.—No. 53 authorises an experiment by which rural municipalities may combine together to insure against hail with the assent of the rate-payers. All arable and pasture land is to be assessed at the rate of 4 cents per acre with a right to compensation at the rate of $5 per acre for total loss, or *pro rata* for partial loss.

Pharmacy.—The previous legislation relating to the control of pharmaceutical chemists is repealed and re-enacted with extensions by No. 78. They form a pharmaceutical association with disciplinary powers on the lines of other professional associations. Cocaine may only be sold upon the prescription of a medical practitioner, and methylated spirits may only be sold by retail as a poison.

Lifts.—By No. 83 "no person under the age of sixteen years shall be employed to operate a passenger elevator anywhere in the Province."

Succession Duties.—An amendment in the law is made by No. 113 so as to provide for reciprocity between Manitoba and other Provinces and countries with a view to prevent double taxation.

5. NEW BRUNSWICK.

Acts passed: Public—44; Local and Private, 58.

Royal Commissions.—No. 12 authorises the appointment of a Royal Commission to investigate charges of unlawfully extorting moneys from lessees of Crown Timber Limits. The Commission had the powers and privileges of the Supreme Court in respect to obtaining and hearing evidence. Another Royal Commission of a similar character was appointed by No. 13 to investigate charges of improper payments to the Saint John and Quebec Railway Company.

Crown Lands.—Leases may be granted under No. 16 of lands for

the growing of cranberries and other small fruit, for grazing purposes, for ranches in which to keep fur-bearing animals in captivity.

Radium.—A reward of $1,000 is offered by No. 17 to the first person discovering radium in the Province, and arrangements are made for regulating its working.

Housing.—No. 23 encourages the provision of housing accommodation in cities and towns in the same way as the Manitoba Act of 1914.[1]

King's Counsel.—The appointment of a King's Counsel is, by No. 29, to be upon the recommendation of the Chief Justice and the Chief Justice of the King's Bench Division, with the exception of the Attorney-General or Solicitor-General for Canada or Attorney-General of New Brunswick.

Workmen's Compensation.—The law on the subject of workmen's compensation is consolidated in No. 34.

6. ONTARIO.

[*Contributed by* A. H. F. Lefroy, Esq., K.C.]

Acts passed—140.

The following statutes of the session of the Legislature of Ontario call for special mention.

Elections.—By the Political Contributions Act (No. 6) every corporation and every director, manager, or officer of a corporation which, and every licensee, or member of a liquor association, or public contractor who, either directly or indirectly, pays or contributes any sum of money or its equivalent in order to aid or promote or prevent the nomination or election of any person to the Assembly or to any public office, or in order to aid, promote, hinder or defeat any political party, or to influence or affect the vote of the electors of the province upon any question submitted to them, shall incur a penalty equal in amount to the value of the payment or contribution, but in no case less than $100, unless such director, manager, or officer, or member of an association proves want of knowledge of the offence, or that he did everything in his power to prevent the committal of it. And every person who, directly or indirectly, by himself or by any other person solicits or receives any such payment

[1] See *supra*, p. 214.

or contribution is made liable to a like penalty; and every person aiding and abetting is made liable to a penalty of not less than $50, nor more than $100. Moreover, where the offence is committed with respect to the candidature or election of any person as a member of the Assembly for one electoral district, the offence is declared to be a corrupt practice within the meaning of the Ontario Election Act.

Death Duties.—A considerable increase is made by No. 10 in the scale of charges in respect to the Succession Duty tax. Thus whereas, in the existing Act, where the aggregate value of the property passing to wife or husband, or to immediate ascendants and descendants, exceeded $100,000, and did not exceed $150,000, 4 per cent. duty was charged, under the new Act 5½ per cent. duty is charged; where under the old Act on an estate so devolving of $300,000, 4½ per cent. was charged, under the new Act 7½ per cent. is charged; and so on, until at last we get to cases where the amount devolving exceeds $1,200,000, when under the old Act only 5 per cent. was chargeable, but under the new 10 per cent. is to be the rate. So, also, the provisions exempting from duty property transferred in the life-time of the owner have been made less liberal.

Taxation.—A similar determination to increase the revenues of the Province is noticeable in the Corporation Tax Act (No. 11). The rate of taxation on companies, other than municipal corporations, carrying on business in Ontario is considerably increased.

Radium.—No. 15 provides that "where radium is found on any lands now the property of the Crown, but which may hereafter be staked out under the Mining Act of Ontario, located or sold under the Public Lands Act, or otherwise disposed of, the owner thereof shall prospect for, develop, and work the deposit or deposits thereof with reasonable diligence and continuously, and shall sell and deliver to the Crown all radium obtained therefrom, for which the said owner shall be paid such sum as may be fixed in conformity with this Act, and on failure or neglect of such owner to so develop and work such deposit or deposits for a perod of four months, or to sell and deliver to the Crown the radium obtained therefrom, the Lieutenant-Governor in Council may declare all radium in such lands to be forfeited to the Crown, and upon the filing in the office of the Registrar of Deeds or the Local Master of Titles, as the case may be, of a certified copy of the order making such declaration, all radium in such lands shall vest in the Crown absolutely freed and

discharged from any other right, interest, or title whatsoever, together with the right to enter upon, dig for, work and remove all radium on or in the said lands, and to do all acts necessary or incidental thereto. It is further provided that "the Lieutenant-Governor in Council may purchase and acquire on behalf of the province any radium-bearing lands not the property of the Crown, or any specified interest therein, or the right to work the same for radium or radium products, on such terms as he may deem proper, subject to the approval and ratification of the Assembly."

Electricity.—The Hydro-Electric Power Commission (No. 16) amends the Power Commission Act, 1904, by adding special provisions for the supply of power for street lighting in townships. It also contains an enactment, paralleled in former statutes relating to the Hydro-Electric Power Commission of the province, that certain contracts, set out, between the Power Commission and certain municipal corporations "are hereby confirmed and declared to be valid and binding upon the parties thereto respectively, and shall not be open to question upon any grounds whatsoever, notwithstanding the requirements of the Power Commission Act, or the amendments thereto, or any other statute."

Advertising.—The County Publicity Act (No. 19) is entitled "An Act respecting advertising of agricultural resources by Counties," and provides that an Association, to be known as a Publicity Association, may be formed in any county by the County Council or in any district in such manner as may be defined by the department of agriculture; and that "the objects of the Association shall be the investigation of the agricultural resources and possibilities of the county or district, and the advertising and publishing of the same by the preparation, publication, and distribution of pamphlets and such other means as may be sanctioned by the regulations." All pamphlets or other literature prepared by an Association are to be submitted to the Minister of Agriculture for approval before being issued; and every Publicity Association is to be entitled to receive for the province out of any moneys appropriated by the legislature for that purpose a sum equal to one-third of the total cost of the Association of carrying out the objects above mentioned. The total cost, however, on which grants shall be payable under the Act is not to exceed $1,000 in any one county or district in any one year.

Agriculture.—The District Representative Act (No. 20) provides that the Lieutenant-Governor in Council, upon the recommendation of the Minister of Agriculture, may appoint local officers who must be graduates of the Ontario Agricultural College, and are to be described as District Representatives of the Department of Agriculture. The Minister, or such officers as he may designate, are to define the duties to be discharged, and any moneys set apart for the carrying on of the work are to be expended as the Minister may direct. In each county where a District Representative is appointed, the County Council in each year is required to set aside $500 for the purpose of assisting in the carrying on of the work of such District Representative.

Statute Law Revision.—The Statute Law Amendment Act (No. 21) is the usual *omnibus* Act containing sundry statutory amendments. One section perhaps calls for special notice. It provides that " where persons who are subjects of Italy, Germany, Austria-Hungary, or Belgium, or of any other country which may be designated by Order in Council, are entitled to moneys which have been paid into Court,or are in the hands of an executor or administrator, such moneys may be paid out to the Consul-General of any of the said countries respectively."

Workmen's Compensation (No. 25).—This is the new Ontario Compensation Act, the result of a prolonged inquiry before a Commission over which Chief Justice Sir William Meredith presided. It came into full operation on the first day of 1915. The Workmen's Compensation Act, 1892, which it has superseded, was based on the English Employers' Liability Act, 1880. The present Act, so far as regards the general basis of a claim to compensation for personal injury by accident arising out of or in the course of a man's employment, follows the principle of the English Workmen's Compensation Act, 1906.

The Act, however, provides for the constitution of a Commission for the administration of the Act, to be called the Workman's Compensation Board, and to consist of three members to be appointed by the Lieutenant-Governor in Council. The Board has already been constituted, and is in active operation. All questions as to the right to compensation, and the amount of it, are to be determined by the Board and its officers instead of in the Courts; and the action or decision of the Board is to be final and

conclusive, and not open to question or review in any Court, and no proceedings by or before the Board may be restrained by injunction, prohibition, or other process or proceedings in any Court or removed by *certiorari* or otherwise into any Court. The employer is required to notify the Board, within three days, of any accident happening to a workman in his employ; and the workman must, as soon as practicable, and before voluntarily leaving the employ, give notice of the accident to the employer, and, where the compensation is payable out of the accident fund provided for by the Act, as presently mentioned, also to the Board, and must make claim for compensation within twenty-four months. Forms prepared by the Board are required to be filled up by the workman, the employer, and the physician, if any. The Act may be described as a new code of law respecting compensation for accidents happening to workmen in the course of their employment.

The part of the Act which is to be administered by the Board is called Part I. It does not apply to all employments, but it applies to employments in the very large number of industries enumerated in Schedule 1 and Schedule 2, chief among which are manufacturing, building, construction, lumbering, mining, quarrying, transportation, navigation, operation of public utilities, etc. The distinction between the two schedules is that, as to employers in the industries in Schedule 1, the Board is to levy an assessment and collect an accident fund out of which the compensation to workmen is to be paid, the employers in this Schedule not being individually liable to pay the compensation; while, as to employers in Schedule 2, no accident fund is collected from them, but they are individually liable to pay the compensation as each accident occurs. The compensation for the injury is payable irrespective of any question of negligence or absence of negligence in the employer or the workman. The matter is not complicated by the old defences of common employment or voluntary assumption of the risk. The only cases in which compensation is not payable, provided the accident arises out of and in the course of the employment, are: (1) where the disability lasts less than seven days; (2) where the accident is attributable solely to the serious and wilful misconduct of the workman, and does not result in death or serious disablement.

No agreement to forgo the benefits of the Act is valid; no part

of the amount payable to the accident fund by the employer is to be charged against the workman; and the compensation cannot be assigned, charged, or attached, except with the approval of the Board. An employer, in Schedule 1, may carry himself on his wage list at a reasonable salary, not exceeding $2,000 per annum, and if he makes return to the Board accordingly will be entitled to compensation like an ordinary workman. Compensation is to be paid for the industrial diseases specified in the Act as well as for accidents. The right to compensation under the Act is in lieu of the right of action for damages at law.

The scale of compensation is provided for by the Act. If the accident results in death, and the workman leaves a widow but no children, the widow is entitled to a monthly payment of $20 a month. If he leaves a widow and children, the payment to the widow is $20 a month and $5 a month for each child under sixteen years of age, not exceeding $40 in all. If he leaves children only, the payment is $10 a month for each child under sixteen, not exceeding $40 in all. If the workman was under twenty-one years of age, and his dependents are his parents, or one of them, such parents or parent will be entitled to $20 a month until the workman would have become twenty-one years of age, or for such longer time as the Board may determine. In the case of other dependents, they are entitled to a sum reasonable and proportionate to the pecuniary loss occasioned to them by the workman's death, as determined by the Board. The necessary expenses of burial, not exceeding $75, are also in all cases to be paid. All the above is governed, however, by the provision that in no case is the compensation to exceed 55 per cent. of the workman's earnings in the employment; and all provisions for compensation are subject to the proviso that no salary or wages of a workman shall be reckoned at more than $2,000 a year. In the case of a widow who marries again the periodical payment ceases on her marriage, but she is entitled within a month after her marriage to a lump sum equal to two years' payments. Where the accident results in total disability of the workman, he is entitled during the continuance of the disability, whether for life or temporarily, to a weekly or monthly payment equal to 55 per cent. of his earnings in the employment. Where the workman is only partially disabled he is entitled to 55 per cent. of the impairment of his earning capacity. An im-

portant feature of the compensation under the Act is that, unlike what existed under the old law, it is payable periodically rather than in a lump sum, and as a rule it continues during disability or during life, as the case may be. Where the impairment of earning capacity does not exceed 10 per cent. the compensation is to be fixed by the Board at a lump sum, unless the Board thinks it is not to the advantage of the workman to do so; and the Board may in other cases fix the compensation at a lump sum if it sees fit.

All employers in the industries included in Schedule 1 are required, without notice, and subject to penalty in case of default, to prepare and transmit to the Board statements of the amount of wages paid and expected to be paid by them. Assessments will be levied for such sums as are deemed necessary for each class of industry, and after receiving notice of assessment employers must transmit the amount to the Board in accordance with the terms of the notice. Employers failing to make pay-roll returns may be assessed for such sum as the Board deems right. In case of failure to pay any assessment, judgment may be entered in the County or District Court, or other means of enforcing payment may be taken. If any employer is for any reason not assessed, he is nevertheless liable to pay the amount for which he should have been assessed. Audits of pay-roll statements will be made by the officers of the Board from time to time, and errors in amount or classification or otherwise will be corrected. Employers commencing any industry after an assessment has been made are required forthwith under penalty to notify the Board of the fact, and security may be required in the case of any industry carried on only temporarily. Employers in the industries included in Schedule 2 are not required to contribute to the accident fund, but as accidents occur from time to time they must pay the compensation fixed by the Board. They are, however, to be assessed for contribution to the expenses of administration.

Employers in the industries included in any class may form themselves into an Association for accident prevention, and may make rules for that purpose, and when such rules are approved by the Lieutenant-Governor in Council they shall be binding upon all the employers in the class. Such an Association may in accordance with such rules appoint an inspector or expert for accident prevention, and his salary may be paid in whole or in part by the Board.

Employers in any class in Schedule 1 may appoint a committee of not more than five of their number to watch over their interests and to approve payment of claims or act as a medium of communication with the Board.

Though not covered by the new code of law, and not under the jurisdiction of the Board, it may be mentioned that by Part II. of the Act, workmen employed in industries other than those included in Schedule 1 and Schedule 2 have had their right to recover damages in the ordinary courts extended by the taking away of the employers' defences of common employment and assumed risk, and the making of contributory negligence only a ground for reduction of damages instead of a bar to recovery; but from this must be excepted farm labourers, menial and domestic servants, outworkers as defined in the Act, and persons engaged in clerical work, and not exposed to the hazards incident to the nature of the work carried on in the employment, these being expressly excluded from the operation of any part of the Act. With the exceptions mentioned, workmen omitted or excluded from the schedules, as well as those included, are now in a much better position than under any former law.

Companies.—No. 29 contains a noticeable amendment of the Ontario Companies Act. It provides that where, upon the application of a shareholder in a company, it is made to appear to a Judge of the provincial Supreme Court that (*a*) the shareholder or the class of shareholders is being or has been unfairly dealt with by the majority of the shareholders, and (*b*) such unfairness is shown to be due to the relations of the company to any other company the control of which is substantially in the hands of the same persons as that of the company in which the complaining person is a shareholder, the Judge may direct an investigation to be made as directed by sub-sections 1 and 3 of s. 126 of the Ontario Companies Act. These sub-sections direct that upon an application by not less than one-fifth in value of the shareholders of a corporation with share capital, or one-fifth in number of the members of a corporation without share capital, the High Court may appoint an inspector to investigate its affairs and management; that such inspector shall report thereon to the Court, and the expense of such investigation shall, in the discretion of the Court, be defrayed by the corporation, or by the applicants, or partly by the corporation and partly by the applicants;

and that the Court may require the applicants to give security to cover the probable cost of the investigation, and may make rules and prescribe the manner in which and the extent to which the investigation shall be conducted. Upon the report of the inspector appointed under the said sub-sections, the Judge may order (*a*) that the shareholder so complaining shall receive such compensation as the Judge may determine for any loss sustained by him by reason of the matter complained of; or (*b*) that the shares held by the shareholder complaining shall be purchased by the company at par value or at such price as will represent their actual value at the time when the matter complained of commenced or took place.

Electric Railways.—The object of No. 31, as set out in its preamble, is to provide for the economical and efficient construction and operation of electric railways in localities in which municipal corporations are willing to provide and bear the cost of the work. The work is to be undertaken by or under the direction of the Hydro-Electric Power Commission, acting for and on behalf of the municipal corporations interested. This, it will be remembered, is a sort of provincial governmental Board first established in 1906, with power to expropriate the lands, works, plant, and property of electric transmission companies, and to supply electric light and power to municipalities in Toronto at a cheap rate. Funds for carrying out such undertakings are to be furnished by the issue of bonds by the Commission, which bonds are to be a charge upon the railway and other works comprised in the undertaking, the debentures of the corporations interested being deposited as collateral security for the bonds; but neither the province nor the Commission are to be liable for payment of such bonds, except to the extent of the money received by the Commission from time to time from the municipal corporations, and as revenue from the operations of the railways. S. 15 provides that no action or prosecution shall be brought against the Commission or any member thereof or any of its officers for anything done under the Act without the consent of the Attorney-General for Ontario.

Fire Inquests.—The Fire Marshals Act (No. 41) is the last Act of last session requiring special notice. By it the Lieutenant-Governor in Council is empowered to appoint an officer, to be known as the Fire Marshal, and Deputy Fire Marshals for particular localities, who are to be under the direction and control of the Fire Marshal.

Subject to any regulations made by the Lieutenant-Governor in Council, the Fire Marshal is to investigate the cause, origin and circumstances of every fire occurring in Ontario by which any property has been destroyed or damaged, and, so far as it is possible, determine whether such fire was the result of carelessness or design, with power to enter into and upon all buildings and premises for the purposes of examination, taking with him, if necessary, a peace officer or such other assistance as he may deem proper; and also, with power whenever he shall find in any building or upon any premises combustible material or conditions dangerous to the safety of such buildings or premises, or which is so situated as to endanger other property, to order such combustible material to be removed or such dangerous conditions to be remedied by the owner or occupant of such building or premises.

7. PRINCE EDWARD ISLAND.

Acts passed—63.

Public Inquiries.—By No. 2 the Lieutenant-Governor is authorised to appoint commissions of inquiry, with the powers of a court of justice as to the attendance and hearing of witnesses.

Education.—The Board of Education is authorised by No. 8 " to purchase text-books and books for schools and school libraries, stationery, furniture, school supplies, equipment and apparatus for the use of schools, and to sell and dispose of the same."

8. QUEBEC.

Acts passed—172.

Liquor Licences.—By an amendment (No. 6) in the Liquor Licensing Laws commissioners are appointed to regulate the number of licences according to the population, with a view to reducing the number. Each consists of three members, of whom one shall be a physician.

Succession Duties.—New rates of succession duty are incorporated in Nos. 9 and 10. No duty is to be levied on bequests for religious, charitable, or educational purposes of less than $1,000.

In a long preamble to No. 11 it is declared that the " holding "

of the Judicial Committee in *Cotton* v. *The King*[1] " was, to a large extent, based upon conditions which were non-existent," and the Act nullifies its effect by declaring :

> The intent and meaning of all the Acts of the Legislature imposing succession duties, was and is, that every person to whom property, or any interest therein, was transmitted owing to death, should pay to the Government directly, and without having a recourse against any other person, a tax calculated upon the value of the property so transmitted.

Motors.—No motor shall carry a red light. No. 12 also enacts that bright headlights shall not be used in congested places so as to dazzle the drivers of other vehicles.

Highways.—A Ministry of Roads is appointed by No. 18.

Employment Bureaus.—Employment bureaus are placed under the direction of the Minister of Public Works and Labour by No. 21.

Education.—The object of No. 25 is to promote the establishment of technical schools and vocational courses for the purpose of training in the various centres of the Province skilled mechanics or employees needed by heads of industrial enterprises and farmers. The object may be attained by the incorporation either of public or private bodies incorporated under the Act. " The technical and practical instruction which shall be given in a technical school or educational course shall be of an exclusively vocational nature. The course of study shall be drawn up especially with a view to local needs, and be submitted on the inspector's report for approval to the Provincial Secretary."

Coroners.—No. 38 details the procedure at coroners' inquests, and among other matters declares that " no inquest shall be adjourned unless it is absolutely impossible to otherwise discover the truth."

Housing.—No. 47 furthers the provision of housing accommodation by subsidising companies engaged in housing upon lines similar to the Acts of other Canadian Provinces.[2] The dividends of the companies must not exceed 6 per cent., and profits beyond that amount are to be allowed either to a reserve fund or the extension of the Company's operations.

[1] [1914] A. C. 176.

[2] See *supra*, pp. 214, 215.

9. SASKATCHEWAN.

[*Contributed by* R. W. SHANNON, ESQ., K.C.]

Acts passed—Public, 43; Private and Local, 7.

Court of Appeal.—Hitherto the Supreme Court of Saskatchewan, sitting *en banc*, has heard appeals from the decisions of a single Judge. The Supreme Court is to be abolished on proclamation, and its duties transferred to a Court of King's Bench (No. 10) and a Court of Appeal (No. 9). The former will consist of six, and the latter of four Judges.

Companies.—All companies, provincial, Dominion, and foreign, must register and must take out annual licences. The substance of the Act (No. 14) is otherwise taken from the English Companies (Consolidation) Act 1908.

Insurance.—Statutory conditions are prescribed for policies of fire insurance by No. 15. New and elaborate provisions are made for mutual fire insurance, hail insurance, and live stock insurance, the rights of beneficiaries under the policies for the benefit of wives and children, or other persons who would become entitled upon an intestate succession, are enlarged and defined, and the whole insurance law of the province is consolidated.

Cities.—The City Act has been revised and consolidated in a statute (No. 16) of 533 sections. Besides general powers of legislating for the "peace, order, and good government" of the City, the Council's jurisdiction is defined in eighty-six articles of s. 204, and in a number of other sections. In various cases where hitherto the sanction of a popular vote has been required, the Council is enabled to proceed without such sanction, provided a certain proportion of the aldermen authorise such a course.

Municipal Debentures.—In relief of local finance, where debentures have been issued for municipal public works, including local improvements to be paid for in whole or in part by the property benefited, and where, in the judgment of the Local Government Board, the period of repayment is shorter than the estimated "lifetime" of the works, authority may be given under Act No. 20 to the Council to extend the period of repayment, the annual levy for sinking fund being proportionally reduced, and the difference in

the amount so raised within the currency of the debentures being provided by a new issue, if necessary.

Arrears of Taxes.—When taxes are in arrears for six months, the property may be sold by Act No. 21. The owner may redeem within two years by paying the amount of arrears, penalties, and costs to the Treasurer of the municipality. After two years payment must be made to the registrar of land titles, who issues title to the tax purchaser in default of redemption.

Schools.—The school law of the province is revised and consolidated by Nos. 23, 24, and 25.

Sale of Farm Implements.—By No. 28 farm implements are divided into large and small implements. Vendors are required to file annual statements of the implements of each kind, which they have for sale, with detailed description in the case of large implements, and with prices and terms in both classes. Statutory forms of contract are furnished for large, small, and second-hand implements respectively, and the use of these is compulsory. Various safeguards are provided for the purchaser of any kind of farm machinery.

Homesteads.—The owner of a homestead, as defined by provincial law, may not alienate or encumber the same unless the necessary instrument is signed by his wife, if he has a wife, and unless the wife, upon being examined separate and apart from her husband, acknowledges that her consent is voluntary. The Act (No. 29) does not give the wife an estate in dower. It merely confers a negative right to prevent disposition of the home without her consent.

Stray Animals.—The various enactments dealing with this subject are consolidated by No. 32. Special powers are given to rural municipalities to deal with estrays, a herd district is formed, and provisions are made for distraining and impounding animals, for disposal of estrays, and for lawful fences and dealing with trespass upon enclosed lands.

Crop Payments.—Where it is provided in a lease, agreement for the sale of the land, or mortgage, that the rent, purchase price, or mortgage debt, as the case may be, is to be paid by a share of the crop grown on the land leased, sold, or mortgaged, the lessor, vendor, or mortgagee is secured by No. 34 in his right to such share against alienation by his debtor as well as against execution creditors of the latter.

Sales of Liquor.—The British North America Act does not permit a province to interfere with trade and commerce between places within its boundaries and places outside, but the Sales of Liquor Act (No. 39) restricts and controls transactions in liquor within the province. A government monopoly is established, the whole liquor business being taken out of private hands. The Act provides for the establishment of stores which will be conveniently situated for the public service. These stores are in the first instance to be opened in places where wholesale houses existed at the date when the Act came into force, no greater number than three being allowed in a city, nor more than one in a town. Subsequently the electors are to decide by vote whether or not existing stores shall be continued or new ones opened.

The system is to be managed by a commissioner, who buys the supplies for all the stores, and who has the sole right to purchase liquor for sale in the province. He puts the liquor into packages containing not more than eight gallons of beer, four gallons of wine, or one gallon of any other liquor. No package is to contain less than eight ounces of liquor. Every package is to be sealed with his official seal, and to have an official label attached. The purchaser will therefore be sure of the quality of the liquor he is getting, and of obtaining full measure.

The government monopoly is secured by the provision that " except as hereinafter provided, no one shall sell liquor in Saskatchewan, except the managers of stores established hereunder, their clerks or assistants, acting in the course of their duty as such." Exception is made in favour of physicians and druggists who are allowed to sell under restrictions on occasions of emergency. Brewers, distillers, and exporters are also permitted to sell either to the commissioner or to any person in another province or in a foreign country.

Stores are to be open for business from nine o'clock in the morning to five o'clock in the afternoon, on every day except Sundays and holidays. No glasses, cups, or drinking vessels are allowed on the premises. Price lists of the goods kept for sale are to be posted up on a notice-board so that all may see. Sales are to be for cash, and must be of sealed packages only. The quantity to be sold in any one day to any one purchaser shall not be more than four gallons of beer or other liquor, two gallons of wine, or one gallon of any other liquor, and not less than sixteen ounces of any kind of liquor.

The result aimed at is that those who wish to use intoxicants may indulge their taste, but that the temptation formerly spread through the community by drinking over bars shall be withdrawn and an end be put to the "treating" habit, which was the source of a great many of the evils hitherto associated with the traffic in liquor.

Not alone is the retail business of the hotels abolished, but liquor is not allowed to be kept or sold in social clubs. In fact, no liquor is allowed to be consumed elsewhere than in a dwelling-house, except under special permit granted for a banquet or under regulations for the use of same in hospitals or for sacramental purposes.

A new official is created to see to the enforcement of the law, under the name of Director of Prosecutions, and Justices of the Peace having jurisdiction over defined areas may be appointed to act as district magistrates for the trial of breaches of the Act.

A provincial vote is to be taken at the municipal elections of 1916, 1917, or 1918, as the Government may decide (such decision being dependent on the duration of the war), upon the question whether or not hotels shall again be licensed to sell intoxicating liquors by retail, and in 1919 a provincial vote will be taken upon the question whether or not the system introduced by the Act shall be continued.

Hotels.—The Sales of Liquor Act having a tendency to render many places of public accommodation unprofitable, another Act (No. 40) provides means of supplementing private enterprise in furnishing such accommodation. An official is appointed, entitled the "director of public accommodation" with a provincial advisory council.

Municipal councils are enabled to appoint accommodation boards, to enforce regulations for the conduct and management of hotels and other places of accommodation, to provide for the establishment of rest and reading-rooms, for sample rooms, and for the care and maintenance of travelling libraries in connection with places of accommodation. Municipal councils may also lease premises for the purpose of the Act, and may grant assistance, not to exceed $200·00 per annum, towards the establishment of rest and reading-rooms. A provincial grant will be given for the same purpose, and be paid to Councils by the director. The amount of the grant is not to exceed $125,000·00 for the last six months of 1915, and is to be reduced by $25,000·00 each succeeding half-year.

10. NEWFOUNDLAND.

Acts passed—26.

Advertisements.—No. 1 places advertisements in St. John's under the control of the Municipal Council and elsewhere of the Governor.

Cruelty to Animals.—The law for the protection of animals is amended and consolidated in No. 2. It makes the provisions familiar in the United Kingdom for the furtherance of the work of the Society for the Protection of Animals. Among other requirements is one that "every cart or other vehicle with shafts, used for draft purposes, shall be provided with a sufficient pritchet or support, which shall be placed, when the vehicle is stationary, under the shafts thereof, and in such a manner as to keep the animal tackled to such vehicle free from the weight of the load thereon." If an animal is injured by a train, motor-car, or motor-cycle "beyond cure," it is the duty of the driver of the train or motor-car to kill the animal or cause it to be killed forthwith.

White Slave Traffic.—The law carrying out the International Convention for the suppression of the White Slave Traffic is adopted by No. 4 in the island.

Trusts and Combines.—No. 5 authorises the Governor to appoint Royal Commissions, with the powers of a court of law as to the hearing of witnesses, to inquire into combines and monopolies.

Food.—By No. 14 arrangements are made for inspecting the purity of food offered for sale in the city of St. John's. Among other things it requires that articles of food offered for sale outside shops shall be "kept properly covered, so that they are protected from dust, dirt, and flies."

Timber.—Modifications are made by No. 17 in the law allowing *bona fide* fishermen to operate saw-mills for making barrels for fishery requirements.

Seal Fishery.—No. 19, repealing previous laws, sets forth detailed provisions for safeguarding the welfare of the men engaged in the seal fishery. They require, for example, that the sleeping quarters of the crew shall be heated by steam-pipes, and that "onions, potatoes, and turnips shall be ingredients in the soup supplied on Saturdays."

War Session.

Twelve Acts were passed in a special war session of Parliament. The first was an Act of Indemnity covering the Governor and Ministers for anything done after August 1, and giving power to make regulations respecting the censorship, "arrest, detention, exclusion, and deportation," control of the harbours and territorial waters, transportation by land, air or water, trading, exportation, importation, production and manufacture, appropriation, control, forfeiture and disposition of property. No. 2 followed the Act of the United Kingdom as to the withholding of food-stuffs. By No. 3 bank-notes were made legal tender. A volunteer force subject to the Army Act of the United Kingdom was authorised by No. 4, and a loan for its maintenance and equipment by No. 8. The appointment of an inquiry into the manner of prosecuting the fisheries of the Colony, including the Seal-fishery, was authorised by No. 5. The Commissioners were required to suggest remedial measures. Steamers are required by No. 6 to be fitted with wireless telegraphy. A loan was authorised by No. 9. Stamp Duties and Succession Duties were increased by Nos. 10 and 11 respectively, and new taxation was imposed by No. 12.

11. BERMUDA.

[*Contributed by* The Hon. Reginald Gray, K.C., *Attorney-General.*]

Acts passed—57.

Agriculture.—No. 2 regulates the importation of potatoes with the object of preventing the introduction of injurious potato diseases from infected countries. The Board of Agriculture is empowered to make Regulations for the inspection, removal, and treatment of all imported potatoes and packages, and for their disinfection and treatment, and also for their destruction when infected with disease. In consequence of these precautions Bermuda potatoes are admitted to the American markets.

Partition.—No. 5 empowers the Supreme Court to direct a sale of undivided real estate, where it appears to the Court to be more beneficial than a partition.

Police.—No. 11 increased the salary of the Inspector of Police

with the object of securing for this important post the services of a fully qualified Police Officer possessing experience of detective work. The Act also provides that on a vacancy occurring in the office of Provost-Marshal-General, that office shall be abolished, and its duties shall devolve on the Inspector of Police.

Criminal Lunatics.—No. 12 authorises the Governor in Council to order the absolute or conditional discharge of such lunatics from the Asylum, with power to revoke any such order as occasion may require.

Pilotage.—Under the Pilot Acts pilotage is practically compulsory. No. 13 was passed to give effect locally to the terms of the International Convention for the unification of the rules of law with respect to collision, signed at Brussels on September 23, 1910, and render the owner or master of a vessel answerable for any loss or damage caused by the vessel, or by any fault of the navigation of the vessel, in the same manner as he would be if pilotage were not compulsory.

Criminal Law.—No. 15 amends in minor particulars the Criminal Code, and further provides that sentence of death shall not be pronounced or recorded against a person under sixteen years of age, but in lieu thereof the Court shall sentence such person to be detained during His Majesty's pleasure.

Copyright.—No. 16 prohibits the importation of infringing copies of copyright works, and provides that before detaining any such copies the Receiver-General may require the regulations made under the Act by the Governor in Council to be complied with. Penalties are imposed on persons dealing with infringing copies, and the Court may order such copies to be destroyed or delivered up to the owner of the copyright.

Opium.—No. 18 gives effect to the adherence of this Colony to the Opium Convention signed at The Hague on January 23, 1912, and prohibits the cultivation of the opium poppy, and the importation of prepared opium. Imported opium is required to be deposited in a place approved by the Governor from which it can be withdrawn only by a registered medical practitioner or dentist, or a veterinary surgeon, or a person licensed to sell poisons.

Shipping.—No. 22 authorises the collection of specified fees by the Chief Officers of Customs, for their own use, on the engagement or discharge of any seaman under the Imperial Merchant Shipping

Acts, or on noting the desertion of any seaman engaged under those Acts.

Salaries.—For the first time in the history of the Colony a general Act (No. 29) has been passed, providing for the salaries of all public officers, except those of the highest four officials, whose salaries were fixed permanently by the Act of 1913, No. 15.[1] The Act is given a duration of ten years.

Aerial Navigation.—No. 31 confers on the Governor in Council plenary powers to prohibit or regulate the navigation of aircraft over the Islands, for the purposes of protecting the public from danger, or for the defence or safety of the Colony. Authority is given to fire on aircraft flying over the Islands, or any prescribed area, in contravention of any Order in Council.

Workmen's Compensation.—No. 35 provides for the payment of sick pay to persons employed as workmen on public works when, by reason of any personal injury caused by an accident arising out of and in the course of their public employment, they are temporarily or permanently incapacitated for the work on which they were employed when the injury was sustained. Sanction may also be given for payment of medical, surgical, and hospital expenses, and, in case of death, of funeral expenses.

Trading with the Enemy.—Nos. 40 and 51 deal with this subject on the usual lines, and have been framed so as to be applicable to any outbreak of war occurring after their passing.

War Contribution.—The Colony being desirous of contributing to the cost of the war, and not being in a position to make an immediate appropriation of a sufficient amount, adopted the expedient of granting an annual sum of £3,450 for fifteen years, which is the approximate equivalent of a present contribution of £40,000, and represents about £2 per head of the resident population. Act No. 41.

Sale of Bread.—No. 46 regulates the sale of bread by weight.

Animal Diseases.—No. 47 empowers the Board of Agriculture to make Regulations for preventing the introduction of any infectious animal disease, and to prescribe the steps to be taken to eradicate any such disease found in existence in the Colony.

[1] "Review of Legislation," 1913, p. 124.

X. THE WEST INDIES.

1. BAHAMAS.

[*Contributed by* HARCOURT MALCOLM, ESQ., K.C.]

Acts passed—34.

The Legislative Session of 1914, although not as long as some of those of recent years, was, however, unexpectedly protracted in consequence of the necessity of dealing with the important subject of Mail, Passenger, and Freight Conveyance between the Colony and Foreign Ports.

Tariff.—The Tariff Act No. 1 is important only in that it reduces the *ad valorem* import duty of customs from 25 per cent. to 20 per cent. By the omission of a number of articles from the Duty-free List they become liable to duties of customs; there is a considerable increase in the duty on spirits. The text of the Act is identical with that of the Act of 1908, the only novelty being the registration of articles exported from the Colony with a view to their being exempt from the payment of import duty upon their reimportation. The privilege of free importation accorded to the Inspector of Imperial Lighthouses is abolished although preserved in the case of the present holder. Among duty-free imports the wide definition of "Passengers' baggage" should prevent any evasion of the payment of import duty by passengers who are also allowed £20 worth of other goods duty free.

Treasury.—The Treasury Department Act (No. 4) is complementary to the Customs Department Act, 1914. For some years it has been thought desirable, especially since a Special Commission recommended the change, that the Customs Department should be separated from the Treasury Department with a view to the more effectual collection of duties of customs. The staff of the Treasury is reduced as well as the salary of the Receiver-General and Treasurer. At the same time the duties of his department are substantially lessened by the transference to the department of the Comptroller of Customs of the control and collection of duties of customs. The officers of either department may be transferred temporarily for duty in the other department.

Customs.—The Customs Department Act (No. 5), complementary to the preceding, establishes a separate Customs Department by carving out of the Treasury Department such of the work of that department as relates to the supervision, control, and collection of all revenue of the nature of duties of customs, and it makes the newly created Comptroller of Customs responsible for that work. It provides the necessary officials and also gives the useful power of temporary transference of officials in the Treasury Department for service in the Customs Department. Corresponding power is included in the Treasury Department Act. No change is made in Out Island Districts where Commissioners remain, as now, *ex-officio* Collectors of Customs Revenue.

Magistrates.—The Magistrates Amendment Act (No. 6), together with the Registrar-General's Act, 1914, carries out a long-contemplated change in the Magisterial and Registry Departments. The system of having two Stipendiary and Circuit Magistrates which has been in operation since 1885 is abolished. In future there will be only one Stipendiary and Circuit Magistrate whose duties in New Providence while he is on circuit will be discharged by the Registrar-General. The Stipendiary and Circuit Magistrate will perform only one of the two annual circuits of the Out Islands, the Registrar-General being required to make the other. While, however, the Registrar-General is on circuit the Stipendiary and Circuit Magistrate will be obliged to undertake the duties of the Registrar. The salary of the office is reduced to £400, but an allowance of £85 is made for travelling and other expenses of circuit. This Act also varies the jurisdiction of Magistrates. The definition of "Small cause" is, in effect, restricted in cases of contract, debt, or rent to £25, in cases of tort to £12, and extended to include any case commenced on the Summary Side of the Supreme Court where the claim does not exceed £50 which is remitted by the Chief Justice for trial at a Magisterial Court. A radical departure has been made by authorising a Circuit Justice, while on circuit, to try summarily any case in which the title to land is involved where the value of the land in dispute does not exceed £25. A useful power of reserving any question of law arising in any civil or criminal case is conferred on a Circuit Justice. Both the Stipendiary and Circuit Magistrate and the Registrar-General must be of five years' standing of the English, Irish, Scotch, or Bahamas Bar, or the Bar of any British

Colony to which a member of the Bahamas Bar is admitted without examination.

Registrar-General.—The Registrar-General's Act (No. 7) aids in bringing into effect the much-debated scheme of abolishing one of the Stipendiary and Circuit Magistrates and creating a general Registry of the records of the Colony by combining the office of the Registrar of the Supreme Court with that of the Registrar of Records. The Registrar-General, whose salary is fixed at £400 a year, in addition to being head of this combined Department, will also be under the obligation of acting as Magistrate in New Providence while the Stipendiary and Circuit Magistrate is on circuit. He also must perform a magisterial circuit of the Out Islands once a year, and for the expenses of this circuit he is allowed £85.

Copyright.—The Copyright Act (No. 11) deals with the importation of copyright works, confers wide rule-making powers on the Governor in Council, and creates a number of offences and sanctions them with appropriate penalties.

Prostitution.—The Immoral Traffic Act (No. 12) became necessary as it had been deemed desirable that the Colony should make a declaration of accession to the International Convention for the suppression of the White Slave Traffic, and this Act has been passed in order to fulfil the obligations incurred by that accession. This Act reproduces the provisions of the Acts of the United Kingdom.[1]

Criminal Law.—The Criminal Law Amendment Act (No. 13) is a companion Act to the Immoral Traffic Act, 1914. It is a reproduction largely of the provisions of the United Kingdom Act,[2] giving power for arrest without a warrant, increasing penalties for procurers, and strengthening the law for the suppression of brothels.

Jury.—The Jury Amendment Act (No. 14) varies the method of the alphabetical selection of jurors for the compilation of the Jury List for the Sessions by taking a name from each letter of the alphabet in succession. The manner of drawing a jury in Court is changed, from the drawing of cards each bearing a juror's name, to the drawing of balls each having a number thereon to correspond with a number opposite the name of each juror on the list of the jury. A new disqualification for jury service is added where any person has been convicted of any offence which, in the opinion of the Reviser or the Judge, renders such person unfit for service as a juror.

[1] 2 Ed. VII, c. 11, and 2 Geo. V. c. 20.

[2] 2 & 3 Geo. V. c. 20.

Post Office.—The Post Office Act (No. 16, amended by No. 21) is the first comprehensive attempt in fifty-five years to deal with this important public department with which the general public come so closely into contact. The provisions of the 13 Acts dealing with this department had become so antiquated in phraseology, and so lacking in elasticity, that consolidation and modernisation were deemed desirable. The Act is largely based upon the Post Office Act of the United Kingdom, 1908, and a few provisions have been borrowed from the Barbados Post Office Act, 1911, and slightly modified. The Act is a code regulating all the activities of a modern and up-to-date Post Office.

The contents of the Act consist of an introductory and three other parts.

Part I. deals with Duties of Postage, Postal Packets, Money, and British Postal Orders, Colonial Membership of the International Postal Union, Parcels Post, Ships' Letters, Post Office Offences, Legal Proceedings, and the general construction of that part of the Act.

Part II. deals with the Post Office Savings Bank, and is practically a reproduction of the existing Acts on the subject with some necessary verbal changes.

Part III. provides for the staff of the Post Office, both permanent and temporary, confers a wide rule-making power on the Governor in Council, and sanctions all expenditure necessary for the efficient management of the Post Office Department of the Colony.

The Mail Service Amendment Act (No. 19) provides more elastic powers in making a contract for the carriage of mails, passengers and freight. No. 20 is a repealing Act on the same subject.

Public Health.—The Public Health Act (No. 17) incurred a considerable amount of opposition during the Session of 1913. It provides a practically complete code regulating health matters. The creation of public health authorities and their administration, unsound food, water, aerated water, milk, infectious diseases, and the prohibition of certain trades to persons suffering from infectious diseases are dealt with by the various sections of this comprehensive enactment, which is a largely consolidating, but at the same time amplifying measure.

Development Board.—The Development Board Act (No. 18)

marks a bold advance on the part of the Colony with a view to advertising the Colony thoroughly as a tourist resort.

Explosives.—The Kerosine Oil Act, 1914 (No. 22), provides safeguards for the protection of the City and Suburbs by limiting to 1,000 gallons the amount of kerosine oil that may be kept in any building other than a building specially appointed by the Governor in Council for the purpose of storing larger quantities.

Diseases of Plants.—The Plants Protection Act (No. 23) is designed to protect the agricultural interests of the Colony by providing stringent regulations in connection with the importation of plants.

Civil Service Pensions.—The Pensions Amendment Act (No. 26), in addition to amending the Schedule to the Pensions Act, 1909, removes doubts as to the pensionable position of certain officers, and makes it unlawful for a retired Governor to accept a Directorship of or similar position in any company operating in the Colony without permission of the Secretary of State, under sanction of the suspension of any pension.

Conveyancing.—The Conveyancing and Law of Property Act (No. 28) by an amendment of s. 32 of the Conveyancing and Law of Property Act, 1909, provides for the vacation of a mortgage on "any property"—real or personal—by a simple endorsement. Before this amendment s. 32 referred to "land" only.

Real Estate.—The Real Estate Devolution Act (No. 29) creates a real representative by enacting ss. 1, 2, 3 and 4 of the Act of the United Kingdom,[1] and ss. 6 and 7 of the Trinidad Ordinance.[2] The wife of the representative does not acquire any dower rights.

2. BARBADOS.

[*Contributed by* WALLWYN P. B. SHEPHEARD, ESQ.]

Acts passed—28.

Opium and Hague Convention Regulations.—The Opium Act (No. 1) is an Act to give effect to the measures decided upon in the International Opium Convention signed at the Hague on January 23, 1912, and to regulate the importation into, and the storage and the disposal of opium, morphine, cocaine, and similar drugs in Barbados.

[1] 60 & 61 Vict. c. 65.

[2] No. 7 of 1902.

Wild Birds' Protection.—The Wild Birds' Protection (Amendment) Act (No. 4) is consolidated with the principal Act of 1907. The Act renders persons having in their possession the dead body of a wild bird recently killed liable to a penalty, and prohibits under penalty the export of the skin or feathers of a wild bird. The Red-seal Coot (*Gallimela galeata*) and White-seal Coot (*Fulica americana*) are added to the schedule of the principal Act.

Expiring Laws.—The Expiring Laws Continuance Act (No. 5) continues until March 31, 1915, the Acts specified in the Schedule subject to power reserved to the Governor in Executive Committee to terminate the Telegraph (West India and Panama) Company's Amendment Act, 1890, any time before March 31, 1915, by three months' previous notice to the Company.

Exportation of Food.—The Exportation of Foodstuffs Acts, 1914 (Nos. 10 and 11), empowers the Governor by Proclamation to prohibit on and from August 4, 1914, the exportation of provisions of any sort, or victuals which may be used as food by man or beast under penalties enforceable by the Act in the event of its contravention.

The (Amendment) Act (No. 11) enables the Governor to amend or revoke any Proclamation made under the preceding Act or the Trade Act, 1910, and also to issue permits for the exportation of foodstuffs if it should appear expedient.

Prices.—The Regulation of Prices Acts (Nos. 12 and 15) enable the Governor-in-Executive Committee to fix maximum retail prices on the sale of the various foodstuffs and oil enumerated in the schedule to the Acts.

Emigration.—The Emigration (Amendment) Act (No. 13) amends like Acts of 1904 and 1913 in respect of the conditions to be contained in the contracts of service, and imposes penalties on emigration and other agents who promote or procure contracts otherwise than in accordance with the provisions of the Act.

Government Loans.—The Special Loan Act (No. 14) enables the Governor-in-Executive Committee to borrow, and the Sugar Industry Agricultural Bank to lend, £20,000 upon the terms stated in the Act.

Temporary Labour Relief.—The Parochial Loans Authorisation Acts (Nos. 16 and 27) enable the various vestries to borrow sums not exceeding £2,000, and apply the money so borrowed for the relief of distress within the parish, and the sums so borrowed are to be a

charge on the rates of the parish until repaid, and on like security money from the public treasury may be lent to the vestries by the Governor-in-Executive Committee.

Public Loans.—The Public Loan Act (No. 19) enables the Governor, with the advice of the Executive Committee, from time to time to raise moneys authorised by any special Act by means of debentures in the form and subject to the terms and conditions stated in the Act with reference to interest, redemption, and sinking fund, and makes the moneys so raised a first charge on the public revenue.

Savings Banks.—The Savings Bank Act (No. 20) repeals the like Acts of 1890 and 1912, and establishes the Savings Bank in Bridgetown under the management of four directors and a manager, with a guarantee by the Government for the repayment of all deposits, and the payment of interest thereon. The Act regulates the appointment of directors and the staff, fixes the salaries of the staff and the hours of business, the method of keeping the accounts, and the terms on which deposits are to be received. It fixes the rate of interest at 3 per cent. per annum, to be made up half-yearly, and credited to the depositor's accounts. All interest is to cease on accounts dormant for ten years. The funds of the Savings Bank are to be kept at a bank approved by Governor-in-Executive Committee, and investments made thereon with the sanction of the Executive Committee. The Act contains provisions for audit, yearly statements, and rules.

Trading with the Enemy.—The Trading with the Enemy Act (No. 21) renders all persons trading with the enemy guilty of a misdemeanour and on conviction liable to imprisonment or fine. Trading with the enemy means all transactions prohibited by Royal Proclamation, common law, or statute. In the case of companies, directors, managers, secretaries, and other officers are liable under the Act. The consent of the Attorney-General is required for prosecution, but persons may be arrested pending the necessary consent. Powers are given to the police magistrates, and to the Governor, to authorise the inspection of all papers and books by persons appointed by the Governor for that purpose, and, upon the direction of the Governor, proceedings may be instituted in the Court of Common Pleas for the appointment of a controller as receiver and manager of the business of any firm or company offending against the Act.

Leprosy.—The Lepers (Amendment) Act (No. 23) is consolidated with like Act 1904 and empowers the police magistrates to issue warrants enabling the police to arrest lepers found in public places, and, after inquiring into the case, to order the leper to be detained in the Lazaretto, or properly isolated and maintained in private under the regulations provided by the Act.

Public Safety.—The Public Safety Act (No. 24) enables the Governor to authorise the search, inspection, and seizure of buildings, lands, ships, vessels, etc., likely to be used for purposes prejudicial to the safety or the defence of Barbados, with powers of arrest of persons using the same, who are to be deemed guilty of a felony, and on conviction liable to imprisonment.

3. BRITISH HONDURAS.

Ordinances passed—30.

Supreme Court.—No. 1 authorises the appointment of a temporary Judge when the Chief Justice certifies that it is inexpedient for him to preside at a trial "by reason of his knowledge of facts, or of his interest in the result."

Dogs.—The law relating to dogs is amended by No. 5, making provision for dog pounds.

Milk.—No. 6 strengthens the law for securing the purity of milk and cream.

Liquor Laws.—No. 7 makes extensive arrangements for prohibiting the supply of intoxicants to labourers.

Newspapers.—A bond is required by No. 15 from the printer or publisher of any newspaper in the Colony.

Foodstuffs.—No. 19 authorises the Governor to fix the maximum price for foodstuffs during the war, and gives him power similar to that taken in the United Kingdom to prevent the withholding of supplies of foodstuffs.

Suspected Persons.—While a state of war exists the Governor, by No. 20, has unlimited power of arresting and detaining suspected persons.

Volunteer Force.—No. 21 imposes severe penalties on any employer dismissing or reducing the wages of an employee called out on military service.

Customs.—The customs duties are increased by No. 22 during the war.

Finance.—No. 23 provides for maintaining the gold reserve.

Agriculture.—The object of No. 24 is to increase the amount of food or other crops grown during the war by granting special leases to agriculturists willing to cultivate it, by assisting cultivators with loans, and by authorising the Government to take land to put it into cultivation.

Parcels Post.—No. 25 authorises the Governor to make agreements within the Empire for the insurance of packages carried by Parcels Post.

Proclamations.—Any defects in the publication of Proclamations or possibility of failure to enforce through technical errors, are obviated by No. 28 in comprehensive terms to give all war proclamations the force of law.

Admission to the Colony.—With a view to preventing the admission of impecunious persons to the Colony during the war, any one desiring to land is required by No. 30 to produce to an authorised officer a sum of $100, and, if required, deposit $50.

4. JAMAICA.

[*Contributed by* ALBERT GRAY, ESQ., C.B., K.C.]

(i) COLONY.

Laws passed—41.

Pilotage.—The owner or master of a vessel navigating in circumstances in which pilotage is compulsory is liable for any loss or damage caused by the vessel, or by any fault in its navigation, in the same manner as if pilotage were not compulsory (No. 4).

Promissory Oaths.—The Act of the United Kingdom on this subject is adapted for Colonial use by No. 7.

Copyright.—Law No. 10 amends the law of 1913 by including among goods prohibited from importation copies made out of the island of any work in which copyright exists under the Imperial Act of 1911, and as to which the owner of the copyright has given notice to the Solicitor-General that he is desirous that such copies should not be imported.

Divorce.—The law of Jamaica is brought into line with that of

England in regard to decrees for restitution of conjugal rights. Such decrees are not to be enforced by attachment, but by order for periodical payments in default of compliance. Failure to comply with the terms of a decree is tantamount to desertion, and, if the husband is in fault, the wife may obtain a divorce if desertion is coupled with adultery. (No. 15.)

Salvation Army.—The General for the time being of the Salvation Army is made a *corporation sole*, and all the property of the Army in Jamaica is vested in him. Provision is made for recording the name of each successor in the Island Record Office. (No. 21.)

Navigation by Aircraft.—Law No. 24 follows many Colonial precedents giving powers to the Governor to prescribe areas for the landing of aircraft, and to prohibit flying over other prescribed areas.

Steerage Passengers.—Ships coming to Jamaica must not bring more steerage passengers than in the proportion of one adult to every twelve superficial feet of deck. The master must also provide on the voyage to each steerage passenger an allowance of three quarts of pure water, and not less provisions than are provided in dietary scales to be made by the Governor in Council. (No. 31.)

Protection of Birds and Fish.—Absolute protection is given to a long list of birds and their eggs; to others, chiefly coots, pigeons, quail, and also to oysters, is given the protection of a close season. (No. 33.)

Education.—The central education authority is the Jamaica Schools Commission. On their recommendation the Governor may establish secondary schools when required. Provision is made for appointment of teachers, for scholarships and examinations, also a conscience clause (No. 34). This is followed by No. 35, which consolidates with amendments eight existing laws.

Bank-notes.—The Governor may, by Proclamation, declare the notes of any bank to be legal tender, the total issue not to exceed a limit to be fixed by him. Specie is not to be exported without the leave of the Governor. (No. 36.)

Volunteer Force.—Law No. 37, which may perhaps not be entirely due to the war, provides for the embodiment and maintenance of a volunteer force.

Press and Postal Censorship.—The Governor may, by Proclamation, forbid the publication of all information as to troops, ships, aircraft, naval and military plans, and comments upon the same. Newspaper editors must not publish any news on such matters, except with the approval of the "Press Censor," who is appointed by the Governor.

Any letters and telegrams may be opened and read by officers of the Post Office, in obedience to an express warrant under the hand of the Governor (No. 38).

Constabulary.—In case of actual or apprehended invasion the Governor may employ the constabulary in actual military service within the Colony. (No. 39.)

(ii) TURKS AND CAICOS ISLANDS.

Ordinances passed—3.

Of the three Ordinances passed, one deals with supply, another makes a small amendment in the Wild Birds' Protection Ordinance, 1912, the third deals with the reception of goods stolen beyond the Colony.

5. TRINIDAD AND TOBAGO.

[*Contributed by* WALLWYN P. B. SHEPHEARD, ESQ.]

Ordinances passed—49.

Powers of Attorney.—The Powers of Attorney Ordinance (No. 1) makes every power of attorney (not within provisions of the Conveyancing Ordinance No. 72) valid until revocation by the principal is registered, and all acts by the attorney after revocation but before registration are to be valid in favour of any person *bonâ fide* and without notice dealing with the attorney.

[Powers of attorney within the provisions of ss. 45 and 46 of the Conveyancing Ordinance (No. 72) are powers created for valuable consideration and made either absolutely or temporarily irrevocable.]

Powers of attorney, authorising the attorney to convey, mortgage, transfer, or otherwise deal with land, when registered, enable the attorney to exercise the powers in respect of any land of which the principal is registered as proprietor under the Real Property Ordinance (No. 60).

Every power of attorney is revoked by the registration of the

instrument revoking or by an entry in writing by the Registrar-General on the registered power of the death, lunacy, unsoundness of mind, or bankruptcy of the principal upon such evidence as shall satisfy the Registrar-General.

[By the Real Property Ordinance (No. 60) the registered proprietor of any land can revoke by an instrument of revocation duly registered upon and from the date of registration any power of attorney he may have given.]

Copyright.—The Copyright (Amendment) Ordinance (No. 2) prohibits the importation of copies made out of the Colony of any work in which copyright subsists upon the request of the owner of the copyright to the Customs Authorities, and subject to the regulations made by the Governor-in-Executive Council pursuant to the provisions of the Ordinance.

Real Property.—The Real Property (Amendment) Ordinance (No. 3) requires the original Crown Grant or certificate of title of any land to be endorsed with the amount of any land resumed by the Crown under the powers in the grant, or acquired under the Land Acquisition Ordinances by the Crown.

Registered land sold under the provisions of any Ordinance is to be conveyed by the public official conducting the sale of the land to the purchaser thereof.

Criminal Law.—The offences against the Person (Amendment) Ordinance (No. 7) amends the principal Ordinance (No. 14, Laws of Trinidad), as to Procuration, and Suppression of Brothels; upon conviction of offender, the tenancy or occupation of premises used as a brothel is determinable by the landlord, and his failure to do so renders him liable to proceedings in the event of a repetition of the offence. Men living on the earnings of prostitutes or who in any public place persistently solicit for immoral purposes are liable on conviction to six months' imprisonment. Women aiding prostitutes in their calling for purposes of gain are, on conviction, liable to six months' imprisonment.

Evidence may be required of husbands or wives of persons charged in certain cases defined by the Ordinance.

Corporal Punishment.—The Corporal Punishment (Amendment) Ordinance (No. 8) prohibits sentences of flogging or whipping upon any female.

Real Property.—The Partition Ordinance (No. 9) enables the

Supreme Court, in suits for partition, to order a sale and division of the proceeds if it appear to the Court more beneficial to the parties interested, unless some of the parties interested undertake to purchase the share of the others requesting a sale. The Registrar of the Supreme Court, when a sale is directed by the Court, is to convey the property sold to the purchaser.

The Ordinance regulates the proceedings in Court, and repeals the Partition Ordinance (No. 50 of the Laws of Trinidad).

Pensioned Officers.—The Pensions (Amendment) Ordinance (No. 11) makes all pensioned officers liable to the loss of their pension if, on their final retirement from the service of the Colony, they become directors or employees of any Company doing business in the Colony without the permission of the Governor in writing first had and obtained.

Wills and Probates.—The Wills and Probate (Amendment) Ordinance (No. 12) extends the period of three months required by the Summary Conviction Offences (Procedure) Ordinance (No. 1, Laws of Trinidad), as the period within which complaints for a summary conviction offence must be made to five years for summary conviction complaints by the Administrator-General against persons taking possession of the estate of any person deceased without proving the will or taking out letters of administration, pursuant to the Wills and Probate Ordinance (No. 99 of the Laws of Trinidad).

Aircraft.—The Aerial Navigation Ordinance (No. 20) enables the Governor-in-Executive Committee, for the public protection or the defence or safety of the Colony, to issue orders imposing conditions as to the flight and landing of aircraft, compliance with which is to be enforced in pursuance of the provisions of the Ordinance.

Judicature.—The Judicature (Amendment) Ordinance (No. 23) declares that " the Common Law, Doctrines of Equity and Statutes, of general application of the Imperial Parliament," which were in force in England on March 1, 1848, shall, subject to the Trinidad Ordinances then in operation, be deemed to be the law of Trinidad on and from March 1, 1848, subject to such contemporaneous and all subsequent Ordinances of the Colony.

Bank-notes.—The Bank-notes (Amendment) Ordinance (No. 26) fixes February 22, 1904, as the date on which the principal Ordinance (No. 243 Laws of Trinidad) shall be deemed to have come into operation.

Trading with the Enemy.—The Trading with the Enemy Ordinance (No. 27) and the Amendment Ordinance, 1914 (No. 36), provide for the prosecution of offenders against the provisions in any Proclamation by the King, prohibiting trading with the enemy.

Companies.—The Companies (Amendment) Ordinance (No. 31) amends the Principal Ordinance (1913) as to private companies, and imposes restrictions on companies incorporated outside the Colony as to holding lands within the Colony.

Friendly Societies.—The Friendly Societies (Amendment) Ordinance (No. 32) amends the principal Ordinance (No. 110, Laws of Trinidad). Registration of societies within the provisions of the principal Ordinance is made compulsory. Amendments of the principal Ordinance are made as regards the registry of societies, and the applications for registration,—as to the exclusion of bankrupts from official positions in registered societies,—as to the duties and obligations of registered societies, and as to fraud or misappropriating the property and funds of registered societies.

The registered societies are exempted from stamp duties in respect of drafts or orders or receipts for money, powers of attorney, bonds, etc.

The Registrar is empowered to appoint an accountant to inspect the books, and report thereon at the cost of the society.

Savings Banks.—The Savings Banks Ordinance (No. 33) amends the principal Ordinance (No. 146, Laws of Trinidad) with respect to the operation of the appointments by depositors in favour of appointees of sums standing to the depositor's account, and enables such appointees to be paid and give receipts for the money payable to them by virtue of the depositor's appointment; but any claim by creditors of the depositor, which the estate, apart from the sum appointed, is insufficient to satisfy, is at the discretion of the chief manager of the bank to be discharged out of the sum appointed. Certificates as to the payment of estate duty or that none is payable are required before payment to beneficiaries.

Fireworks.—The Summary Convictions (Offences) Amendment Ordinance (No. 35) makes the discharge in any town of fireworks, which include bombs, torpedoes, squibs, rockets, and serpents, an offence liable to penalties and imprisonment on conviction.

Alien Enemies.—The Alien Enemies Ordinance (No. 37) gives effect to the Governor's Proclamation, 1914, prohibiting any business

to be carried on by or for or on behalf of persons of German or Austro-Hungarian origin, and providing for the winding up of such business.

Censorship.—The War Censorship Ordinance (No. 38) applies to newspapers, magazines, books, pamphlets, or other publications published or circulated in the Colony, and enables the Governor to appoint Censors for the purpose of controlling telegrams, postal packets, and newspapers, and offences under the Ordinance make the offender liable to prosecution before a magistrate.

Agricultural Loans.—The Estates (Labourers) Relief Ordinance (No. 39) enables temporary advances from the public moneys of the Colony to owners of estates, otherwise unable to obtain advances, to enable such owners to defray the expenses of management and cultivation of their estates. Provisions as to procedure for advances, and their repayment, are made by the Ordinance.

Vehicular Traffic.—The Licensing of Vehicles Ordinance (No. 40) requires the owners of all vehicles, which include carriages, motors of all kinds, tramcars, carts, and cycles to obtain the prescribed licence in respect of the vehicles owned by them from the Licensing Authority, subject to penalties of fines or imprisonment for user of such vehicles without possession of the licence.

Droghers and Sailors.—The Droghers Ordinance (No. 41) establishes a Register of Droghers and a Register of Sailors for the purpose of controlling by means of licences and certificates of registration the employment of craft engaged in lading or unlading ships or in the coasting trade and of the sailors engaged therein.

Reformatories.—The Reformatory and Industrial Schools Ordinance (No. 42) amends and consolidates the existing Ordinances in relation to such schools.

Solicitors.—The Solicitors Ordinance (No. 46) amends the principal Ordinance, 1912, with respect to qualifications, admission to practise in the Colony, and qualifying examinations, and repeals Ordinances Nos. 25 of 1913 and 10 of 1914.

6. THE WINDWARD ISLANDS.

[*Contributed by* Sir Charles J. Tarring, *late Chief Justice of Grenada.*]

(i) GRENADA.

Ordinances passed—16.

Bank-notes.—No. 2 imposes conditions on the issue of bank-notes in the Colony. It is not to apply to the Colonial Bank.

Copyright.—No. 5 facilitates the operation in the Colony of the Imperial Copyright Act, 1911 (with which it is to be construed), as to infringing copyright.

Motor-cars.—No. 8 regulates the use of motor-cars in the Colony, provides for their registration, and imposes a licence on drivers.

Trading with the Enemy.—Trading with the Enemy is forbidden by Ordinance No. 10, which also provides measures for preventing it.

Aerial Navigation.—No. 13 empowers the Governor to prohibit the navigation of air-craft over areas prescribed in the order, to prescribe areas within which air-craft coming from outside the Colony may land, to impose other conditions, and to compel compliance by air-craft disobeying signals.

Midwives.—No. 15 provides for the registration of midwives and their attendance on the wives of paupers and labourers. It repeals the previously existing Midwifery Ordinance.

The remainder of the legislation consisted of small amending ordinances.

(ii) ST. LUCIA.

Ordinances passed—6.

Trading with the Enemy.—No. 5 is in terms similar to those of Ordinance No. 10 of Grenada.[1]

Copyright.—No. 6 provides penalties in pursuance of the Imperial Copyright Act, 1911, for infringement of copyright and importation of copies.

Several Amending Ordinances were also passed by the legislature.

[1] See *supra.*

(iii) ST. VINCENT.

Ordinances passed—18.

Motor-cars.—No. 2 is in terms similar to those of Ordinance No. 8 of Grenada.[1]

Secondary Education.—No. 3 makes provision for the establishment of secondary schools in the Colony. Religious teaching may form part of the instruction, but its reception may be vetoed by the parent or guardian of any pupil.

Notaries Public.—Notaries Public may by Ordinance No. 6 be appointed by the Governor, and their duties are prescribed.

Small Towns Traders' Licences.—No. 7 imposes licences on traders in small towns.

Small Towns Water-rate Assessment.—No. 8 imposes additional rate for the establishment and maintenance of a water-supply in small towns.

Copyright.—No. 11 gives effect to certain provisions of the Imperial Copyright Act, 1911, as to infringing copyright and importing copies.

Trading with the Enemy.—No. 14 is in terms similar to those of Ordinance No. 10 of Grenada.[2]

Amendments were passed to a number of other Ordinances.

7. THE LEEWARD ISLANDS.

[*Contributed by* SIR CHARLES J. TARRING, *late Chief Justice of Grenada.*]

THE FEDERAL COLONY.

Acts passed—8.

Statute Law Revision.—The Federal Revision Acts (Nos. 3, 7, and 8) repeal eight Acts of the years 1876—1906; order to be struck out of all Federal Acts in force at the commencement of these Acts, and passed before December 1, 1881, and out of all Federal Acts similarly in force and passed since December 1, 1881, and to be read with or referring to and amending any such last-mentioned Acts, —certain expressions and substituting others; and further amend certain Acts of various dates from 1872 to 1912.

[1] See *supra*, p. 249. [2] See *supra*, p. 249.

Trading with the Enemy.—Trading with the Enemy is defined and forbidden by No. 9, and procedure prescribed.

Two consolidating Acts dealing with Pensions (No. 5) and Juries (No. 6) were approved and amendments were passed of the Ordinances relating to stamp duties (No. 4) and Police (No. 11).

(i) ANTIGUA.

Ordinances passed—6.

Lights on Vehicles.—No. 3 provides for lights being exhibited on vehicles in public streets, highways, or roads between the hours of 7 p.m. and 5 a.m. or 6.30 p.m. and 5.30 a.m., according to season. Vehicles drawn or propelled by hand are excepted. The Governor in Council is empowered to allow exemptions during crop time or harvesting operations. Ordinance No. 6 of 1913 is repealed.

Aerial Navigation.—Ordinance No. 4 is in terms similar to Ordinance No. 13 of Grenada.[1]

Moratorium.—No. 5 authorises the Bank to suspend specie payments, but prohibits any issue of notes in circulation beyond the reserve of specie at any time in its vaults, and the removal from the Presidency of any portion of its reserve of specie in its vaults.

(ii) DOMINICA.

Ordinances passed—10.

Wild Birds' Protection.—Ordinance No. 2 protects absolutely certain birds specified in Schedule A, and defines a close period for the birds specified in Schedule B. The Governor is empowered to exempt any person for scientific or other purposes from the prohibitions of the Ordinance, and to extend or vary the close period. He may also vary the lists of birds in the two schedules. Act No. 5 of 1887 is repealed.

Opium.—Ordinance No. 3, giving effect to the Hague International Opium Convention of January 23, 1912, prohibits the importation of prepared opium and the cultivation of the opium poppy, and orders the deposit of imported opium in appointed stores, only to be withdrawn on the authority of the Chief Government or

[1] See *supra*, p. 249.

other authorised medical officer, and only to duly qualified medical practitioners, veterinary surgeons, dentists, and licensed druggists. Persons found in possession of opium otherwhere than in a store, and their accomplices, shall, unless they prove ignorance of its presence, be liable on summary conviction to a maximum fine of £100 or to imprisonment for not more than twelve months with or without hard labour, and any prepared opium or opium unlawfully imported or withdrawn from store may be forfeited to His Majesty. Search warrants may be granted on sworn information for Sundays or other days, to enter any named place, ship, or vehicle, to enforce the provisions of the Ordinance. Ordinance No. 6 of 1913 is repealed.

General Loan and Inscribed Stock.—No. 4 provides for the raising of loans authorised by the Legislature by debentures or by inscribed stock issued under the Imperial Stock Act, 1877, and for their payment. Act No. 11 of 1892 is repealed with savings.

Moratorium.—No. 5 is in the same terms as Ordinance No. 5 of Antigua.[1]

Roads.—No. 10 provides for the repair and preservation of the roads of the Colony, and repeals Act No. 18 of 1888 with savings.

(iii) MONTSERRAT.

Ordinances passed—6.

Aerial Navigation.—No. 1 is in terms similar to those of Ordinance No. 13 of Grenada.[2]

General Loan and Inscribed Stock.—No. 2 is in terms similar to those of Ordinance No. 4 of Dominica.[3] It repeals Ordinance No. 10 of 1892.

Lights on Vehicles.—No. 3 is in terms similar to those of Ordinance No. 3 of Antigua.[4]

Cotton.—Ordinance No. 5 makes the period from September 1 to March 31 a close season, during which no cotton shall be sown or planted, and ordains that cotton plants planted before September are to be destroyed before the last of the succeeding February. These dates may be suspended or changed by the Governor in Council.

[1] See *supra*, p. 251. [2] See *supra*, p. 249. [3] See *supra*. [4] See *supra*, p. 251.

(iv) ST. CHRISTOPHER AND NEVIS.

Ordinances passed—9.

Aerial Navigation.—No. 2 is in terms similar to those of Ordinance No. 13 of Grenada.[1]

Wireless Telegraphy.—By Ordinance No. 3 licence must be obtained from the Governor in Council for establishing stations or installing or working apparatus in any place or on board any ship registered in the Colony. Wireless telegraphy on board any merchant ship, British or foreign, while in the territorial waters of the Colony must be worked in accordance with regulations under the Ordinance. Search warrants may be granted by magistrates to enter and inspect stations, places, or ships, and to seize apparatus, to enforce the provisions of the Ordinance. Ordinance No. 9 of 1903 is repealed.

Motor-cars.—No. 4 regulates the use of these vehicles, and creates a system of registration and licensing.

Moratorium.—Ordinance No. 5 is in terms similar to those of Ordinance No. 5 of Antigua.[2]

Telephones.—No. 6, providing for the erection, maintenance, and working of telephones in the Presidency, is to be read and construed subject to the provisions of Act No. 12 of 1890 of the General Legislative Assembly of the Colony.

(v) VIRGIN ISLANDS.

Ordinances passed—4.

Wild Birds' Protection,—No. 1 is in terms similar to those of Ordinance No. 2 of Dominica[3]; but the schedules differ.

[1] See *supra*, p. 251. [2] See *supra*, p. 251. [3] See *supra*, p. 251.

XI. MEDITERRANEAN COLONIES.

1. EGYPT.

[*Contributed by* NORMAN BENTWICH, ESQ., *of the School of Law, Cairo.*]

For the first time Egypt appears in this summary of legislation as a part of the British Empire, since the declaration of the Protectorate was made by a Proclamation at the end of the period under review. Martial law had already been proclaimed in the country by the General Officer commanding the Army of Occupation, and the regular work of legislation was suspended during the second half of the year. The amount of ordinary legislation, *i.e.* of laws enacting permanent rules, was consequently very small in 1914, but the war in Egypt as elsewhere induced a considerable output of extraordinary measures.

I. ORDINARY LEGISLATION.

Revenue.—No. 2 fixes the Budget which for the first time covers the period from April 1 to March 31.

Criminal Law.—In view of the urgent need of strengthening the law against unlawful meetings and riots, the Government issued a new law (No. 10) supplementing the first code on this topic and based on the Indian law. When an assembly of three or more persons threatens the public peace and has been directed by the authorities to disperse, any person neglecting to obey the order is punishable with six months' imprisonment or fine (Art. 1). If the assembly has as its object to commit an offence or prevent the execution of the law, etc., every member who fails to detach himself when he knows of the purpose is liable to the same penalty, and if he is bearing arms to a severer penalty. The punishment is raised to ten years' imprisonment for every member of the assembly if force or violence is used.

Criminal Procedure Law.—No. 7 amends certain articles of the code of Criminal Procedure by extending the powers of the Committing Magistrate (Juge de Renvoi) who prepares the most serious criminal cases for trial by the Assize Court. It is designed to avoid the conflicts that have arisen between the Magistrate, the

Parquet—the authority that conducts criminal inquiries and prosecutions—and the judges of the inferior criminal courts.

Civil Procedure.—No. 3 raises the competence of the Summary Judges of the Native Courts to suits of the value of 2,000 piastres (= £20) in first instances, and with appeal, to suits of the value of 15,000 piastres. The law follows the lines of No. 33 of 1913, which raises the competence of the Summary Judges of the Mixed Courts.

Religious Courts.—The organisation of the Mehkemehs (the Mohammedan Courts of personal statute) is amended by Law No. 12, which entrusts to the Sultan the nomination of the presidents and vice-presidents of the Tribunals. Other changes in the composition and procedure of the Courts are made.

Agriculture.—Law No. 4 adds to the regulations introduced by Law No. 19 of 1912 to combat the ravages of the cotton-worm.

Public Health.—An important measure in the interests of public health was enacted providing for the embankment and draining of ponds and marshes (No. 5). The owner of a pool, etc., in which water settles so as to constitute a public danger is bound to embank or drain it. An order is issued to the effect by the Ministry of the Interior after consultation with the local authority. A committee is established in each province with the object of securing the permanence of the works to prevent the pond or marsh becoming again injurious to health. The owner is summoned to carry out the work, and on his default the committee values the pond or marsh, estimates the cost of the proposed works, and the proprietor is directed to abandon the property to the State on payment of the estimated value. If he fails to do so the Government can carry out the works at his expense. The owner has a right of recourse to the tribunal of the locality within eight days of the notification of abandonment. The land recovered is to be used for sanitary works for the village or purposes of public utility.

Weights and Measures.—No. 9 fixes the Egyptian weights and measures according to the Metric standard of the International Metric Commission. A bureau of Weights and Measures is instituted to keep the official weights, etc., and any person may demand from the bureau the verification of his weights. The use of false weights is made an offence punishable by imprisonment of a week or fine.

II. Extraordinary Legislation.

A. *Economic Measures.*

Currency.—A decree issued on August 2 gives compulsory currency to bank-notes of the National Bank of Egypt to any amount.

Moratorium.—A partial Moratorium postponing the payment of Bills of Exchange was decreed on August 4, and a more complete measure of the kind on August 9, which extended the remission of debts for all commercial affairs to September 15. The postponement of payments was extended successively, and by the final decree issued in October negotiable instruments which fell due during the period of suspension became payable in instalments before the end of January 1915, while other commercial debts were similarly payable before the end of the year.

Cotton.—The crisis on the cotton market of Alexandria caused by the outbreak of war called for the issue of special decrees. The committee of the Bourse passed a resolution closing all cotton contracts at a fixed price; and the Government found it necessary to suspend the committee, declare the nullity of its decision, and appoint a Special Commission for the regulation of the Bourse. Amicable arrangements for the settlement of cotton contracts were to be extended to this Commission, and the period for the liquidation of such contracts was fixed by decree.

The Government also found it necessary to restrict the area under cotton cultivation in 1915. In Upper Egypt the cultivation was altogether forbidden, and in Lower Egypt only one-third of the holding of any proprietor was to be used for cotton.

Foodstuffs.—A law (No. 6) was passed at the outbreak of the war which empowered the Government to fix the maximum price of foodstuffs and articles of the most general necessity. A Commission was established in each province for the purpose of fixing prices, which was to publish a list each week. Penalties were imposed on any person who should sell at a price above the tariff or refuse to sell at that price; and the Court was directed to order the closing of the offending establishment and the seizure of the supply improperly sold or withheld.

A supplementary law (No. 8) gave the local Commission the power of fixing the price for the milling of flour.

Another law (No. 11) prohibited the decortication of rice, so as to prevent the loss of seed from the crop of 1914, and guard against the danger of an insufficient supply of rice-seed for the extended area likely to be given to rice-cultivation in consequence of the restriction of the area to be sown with cotton.

B. *Defence Legislation.*

On the outbreak of war between England and Germany the Government issued a decree defining the obligations of persons in Egypt in relation to the enemies of Great Britain. Any person residing in or passing through Egypt was forbidden (1) to make any contract directly or indirectly with the enemy Government or contribute to any loan for its benefit, (2) to make any contract with or for the benefit of a person in the enemy country or make any payment to such person on account of an existing contract; (3) to enter into a new contract with or for such a person. Egyptian ships were forbidden to enter German ports, and the export from Egypt of contraband articles was forbidden. British war-ships might exercise belligerent rights in Egyptian ports, but German ships in Egyptian ports at the outbreak of war were given days of grace till August 18 in which to depart. Vessels of over 5,000 tons were excluded from this indulgence. Vessels that had passed or were about to pass the Suez Canal, whatever their nationality, might make the passage without risk of capture provided they used the Canal in the normal way.

Martial law was proclaimed on November 2, but civil officials were directed to continue their functions.

2. GIBRALTAR.

[*Contributed by* ALBERT GRAY, ESQ., C.B., K.C.]

Ordinances passed—17.

Names of Streets.—The Public Health Commissioners may, with the consent of the Governor, alter the names of streets. (No. 3.)

Copyright.—An amending Ordinance (No. 4) on this subject is in model form.[1]

Emergency Legislation.—The first war Ordinance is No. 10,

[1] See Legislation of Gambia, *supra*, p. 169.

which enables the Government to issue notes, of £50, £5, £1, 10*s.*, and 2*s.*, to an amount not exceeding £250,000. They are called bank-notes, but are stated to be issued on the security of the revenues of the Colony.

No. 11 authorises the Governor, by Proclamation, to prohibit the exportation of arms and ammunition.

No. 12 authorises the Governor to fix the maximum prices at which any articles of food are to be sold.

The importation of sugar without a licence is prohibited by No. 16.

No. 17 is a short form of the Imperial Act as to trading with the enemy, this expression being defined as any act prohibited by any Proclamation of the King, or constituting the offence at common law or by statute.

Protection of Wild Birds.—Wild birds, their eggs and plumage, are protected during a close season (Feb. 1—July 15). The close time for bustards and quails may be extended by the Governor. (No. 13.)

Forgery.—A forgery consolidation Act (No. 14) follows the recent Act of the United Kingdom.

Oaths.—An oath may be administered, as now in England, following the Scottish form, in the first person. (No. 15.)

3. MALTA.

[*Contributed by* ALBERT GRAY, ESQ., C.B., K.C.]

Ordinances passed—23.

Post Office.—Some minor amendments are made in the principal Ordinance of 1900 by No. 5, the most noteworthy being one to the effect that embossed or impressed stamps "cut out of envelopes, postcards, or newspapers may be used as adhesive stamps in payment of postage, provided they are not imperfect, mutilated, or defaced in any way."

Official Secrets.—The Official Secrets Ordinance (No. 6) follows the Official Secrets Act, 1911, very closely.

Aerial Navigation.—No. 9 is in model form.[1]

Weights and Measures.—In 1910 Malta passed an Ordinance [2]

[1] See "Review of Legislation" for 1913, [2] See Journal, vol. xii. p. 513.

for the adoption of weights and measures on the metric system. It seems, however, that the Ordinance has not yet been put into force. In the meantime No. 10 of 1914 has been passed as a temporary measure, providing for the qualification of public weighers, the marking of every measure of weight, length, or capacity with the denomination of it, the periodical inspection by the police of weights and measures. The Ordinance is timed to expire when that of 1910 comes into operation.

Stamp Duties.—A comprehensive Stamp Duties Ordinance (No. 16) covers the ground by normal provisions. It is not represented as in substitution for any existing legislation, and the date of its operation is left to the Governor to fix by Proclamation.

Emergency Legislation.

Currency Notes.—The Governor may, under No. 8, issue Currency Notes of not less denomination than 5s. There is a further difference between this law and 4 & 5 Geo. V. c. 14,[1] that the Malta notes of under £1 are not to be legal tender for any sum exceeding £5.

Food Supplies.—" The Governor may, by orders and regulations, take any steps he may consider necessary in the interests of the security and defence of these islands, for controlling trade and business in food supplies, and other commodities of primary necessity and regulating the distribution thereof " (No. 11). This Law, passed August 29, 1915, and not founded on any existing emergency Act of the United Kingdom, was limited in operation to six months.

Trading with the Enemy.—No. 13 (as amended by Nos. 15 and 21) follows the United Kingdom Act 4 & 5 Geo. V. c. 87.[2]

4. CYPRUS.

[*Contributed by* ALBERT GRAY, ESQ., C.B., K.C.]

Laws passed—13.

Aerial Navigation.—Power is given to the High Commissioner to prohibit navigation of aircraft over areas prescribed in the order, to prescribe the areas within which aircraft coming from abroad must land. Aircraft disobeying the order may be fired upon. (No. 2.)

[1] See *supra*, p. 15.

[2] See *supra*, p. 25.

Suitors' Protection.—A law is passed (No. 7) to "suppress intermeddlers with suitors in courts of justice." It is an offence punishable with a fine of £10 to (*a*) solicit or receive from any advocate a qualification in consideration of procuring for such advocate employment as an advocate, (*b*) to retain any gratification entrusted to be paid to an advocate, or (*c*) not being authorised by law to practise in any court, to solicit or receive from any person any qualification in consideration of procuring the employment of an advocate.

Sheri Courts.—Persons not worth £10 may be admitted to sue or defend as paupers. (No. 9.)

Ottoman Penal Code.—All minimum punishments of the penal code, except for treason or homicide, are abolished, and where one punishment only is provided, it is to be the maximum. In respect of certain offences, such as larceny, forgery, offences against the person (not punishable with death), perjury, libel, fines may be imposed. Manslaughter is made punishable with imprisonment for life, exposure of a child under two with imprisonment for five years, neglect of children with imprisonment for four years, or if death ensues—ten years. Parents, sons, and daughters of an "incapable" person, *i.e.* incapable through mental or bodily weakness or old age of providing for himself, are bound to maintain such person, under penalty of imprisonment for two years. Smaller offences in connection with drunkenness and indecency are created, and it is made an offence to employ dancing-girls at Moslem feasts. (No. 12.)

Co-operative Credit Societies.—By the Co-operative Credit Societies Law (No. 13) provision is made for the constitution and registration of these societies, which are intended to make advances or to give supplies of seed, manure, cattle, fodder, etc., to their members. A society, when it is a creditor against a member's estate, ranks after the Government and the landlord, but before other creditors. The law does not specify the subscription or contribution of the members, and it is evident that the societies will have Government assistance.

FOREIGN.

1. DENMARK.

[*Contributed by* P. Skadhauge, Esq.]

The year 1914 was not very eventful in Danish legislation. Still, there are some statutes of importance to notice.

Adoption.—An Act of April 1, 1914 (No. 63), provides that the adoption of a child must have the approval of the Minister of Justice, who besides being a Secretary of State with the administrative and political functions of the English Lord Chancellor, also exercises some of the functions of the Home Secretary and the functions of the Local Government Board in sanitary matters.

Public Health.—As a result of the work of a Royal Commission appointed to prepare schemes for the reform of sanitary legislation, two Acts are issued, one of April 21 (1914–87), concerning the medical officers, and another of June 13 (1914–126) about midwives.

Land Tenure.—An Act of May 2 (1914–101) reforms the manner in which the State exercises its control over the fiefs, the family estates, and, in general, the feoffments in trust.

Unemployment.—An Act of April 8 (1914–80) provides that the State, and, in certain circumstances, also the municipalities, shall subsidise the relief funds for unemployed, provided that the regulations of such relief funds are authorised by the Home Secretary.

Land Purchase.—The Act of June 13, 1914 (No. 127), makes provision in order to assist workmen, particularly country workmen, to acquire land. Provided that he fulfils the conditions required by the Act, a workman can obtain a loan from the State corresponding to nine-tenths of the price of the property which he wishes to acquire. The price of the property must not exceed 10,000 Danish crowns (about £550).

Among the numerous Acts passed on account of the war between

England, France, Russia, Belgium, and Germany-Austria-Turkey, the following may be mentioned:

Neutrality.—The Act 1914–149 of August 2, prohibiting, under penalty of imprisonment, any support from Danish territory to any of the warfaring Powers.

Prohibited Exports.—The Act 1914–159 of August 6, prohibiting the export of any war materials, etc., of victuals, corn and fodder, firing and oils, wood, steel and iron, gold and silver, any beasts of burden, motor-cars and cycles.

War Prices.—The Act 1914–164 of August 7, authorising the Home Secretary to regulate the price of victuals and goods.

Moratorium.—The Acts 1914–179 and 242 of August 20 and October 9, providing a moratorium for debt founded before August 1, 1914:

(*a*) For inland debt: on condition that debtor satisfies the Court that, owing to present extraordinary circumstances, he is unable to pay, the moratorium to be allowed only for debt admitted by defendant.

(*b*) For foreign debt: on condition that it has been contracted in the trade both of first creditor and of debtor.

The Act 1914–261 of October 29, providing the penalty of imprisonment or of heavy fines for any one who acts, or attempts to act, contrary to his declaration, made before a public authority concerning the place of destination for ships or for goods which he intends to export from or import to Denmark, and for any one who consciously contributes to such action.

2. FRANCE.

[*Contributed by* M. C. SANSAS, *Docteur en droit.*]

The laws and decrees which were promulgated during the year 1914 may be classified under two heads: (i) provisions previous to the European War; (ii) provisions relative to the war.

Legislation prior to the War.

The most important matters may be reviewed as follows:

Loan Associations lending on the Security of Immovable Property.—Whenever a cowshed, a barn, any other building of the same nature, or a small workshop is added to a private house on a small

scale, societies lending on the security of immovables are empowered, by a law of February 11, to make mortgage loans over and above the amounts allowed by the law of April 10, 1908, provided always that the loans do not exceed 2,000 francs, exclusive of the amount of the costs and of the premium on one single assurance policy. The borrower must prove that he is a person receiving a salary, or a farmer, *métayer*, husbandman, mechanic, or small employer.

Miners' Pension Fund.—A miners' pension fund was established under State control by an amendment of February 29 to the law of April 5, 1910. It is managed by a council consisting of members six of whom are elected by the workmen, six by the employers, and six by the State. The employers contribute a monthly sum amounting to 4 per cent. of their employees' wages. Of this sum 2 per cent. is paid by the employers, and the other 2 per cent. is deducted from the wages of the workmen. Persons whose salaries exceed 3,000 francs are entitled to avail themselves of the provisions of the law only to the extent of that sum.

Elections.—A law of March 20 regulates electioneering bill-posting; another of March 31 represses bribery and corruption at elections; and a third of the latter date endeavours to ensure the secrecy and freedom of voting as well as the genuine expression of the general will ("la sincérité") at elections.

Parliamentary Inquiries.—A law of March 23 regulates the taking of evidence by parliamentary committees of inquiry.

Taxation.—A law of March 29 regulates the property tax on estates, whether built upon or not; and the income tax on French or foreign movable property.

Caution Money.—Every trader or manufacturer who receives by way of caution money any sum equal to or greater than 1,500 francs must by a law of April 2 enter such sum in a special register. The entry must be initialled by the workman or employé, in whose name the sum must be paid into a special account at a savings bank within five days of its receipt. A magistrate may authorise the employer to draw upon the sums paid into the special account to the extent of the debt which may have become due to him.

Riots.—Communes are made liable, by law of April 16, in a civil suit for damage and injury arising out of any crime or tort committed with open force and violence within their limits by gatherings or

assemblies, armed or unarmed, against either the person or property, public or private. Should the commune fail to take the steps required to ensure the payment of the damages incurred by it, resort may be had officially to a decree of the Conseil d'État.

Marriage.—A law of March 29 ratifies an agreement made between France and Italy on August 4, 1912, concerning the marriage of poor persons. In the collateral line, marriage is prohibited, by a law of July 1, between the brother-in-law and the sister-in-law, whether they are legitimate or illegitimate children. It is prohibited between relatives by marriage to the same degree, where the marriage out of which the relationship arises has been dissolved by divorce.

Registration of Mortgages.—Whenever a mortgage upon a ship or its cargo is made or renewed, or a transfer effected of such a mortgage, a copy of the memorandum or an extract from the document evidencing the transaction, by law of July 4, must be forwarded by the customs collector to the head customs office under which he works.

Algeria.—A law of July 17 makes provision for native questions in Algeria.

Workmen's Compensation.—A law of July 17 extends to forestry the law of April 9, 1898, providing for workmen's compensation.

Income Tax.—A law of July 17, 1914, imposing an income tax was the most important work of the session. It has, however, not been brought into operation in consequence of the events which so closely followed its enactment. A law of December 26, 1914, has postponed the coming into operation of the provisions to January 1, 1916.

War Legislation.

By decree of August 1, 1914, mobilisation of Army and Navy was ordered; the right of requisition was proclaimed over the whole country; by decree dated August 2, martial law was proclaimed over the eighty-six French departments, the Belfort territory, and the three departments of Algeria.

The Chambers, which were then sitting, passed on August 5 several laws necessitated by the crisis, and were prorogued after allowing to the Executive the fullest powers.

Army.—To facilitate recruiting, Alsace-Lorrainers who enlist may be drafted into any of the military forces; insubordinate soldiers and deserters are pardoned; young Frenchmen, natives of Algeria, and Tunisian subjects may enlist, if seventeen; minors twenty years old may, in a case of urgency, be authorised by a magistrate to enlist; constables and policemen are made subject to military law.

To facilitate the organisation of *cadres*, cadets at the Polytechnic and Special Military Colleges (Écoles polytechnique et spéciale militaire), candidates for entrance at the aforesaid schools, students at the Mining School (École des mines), the Central College of Arts and Manufactures (École centrale des arts et manufactures), the Civil Engineering College (École des Ponts et Chaussées), the Higher Training College (École normale supérieure), and the Forestry School (École des eaux et forêts), are all appointed second lieutenants; officers who have resigned or have been removed from their *cadres* for any cause which does not entail incapacity to serve may be reinstated with the rank they last held; regulations fixing an age limit in the case of officers cease to apply; lastly, no condition as to length of service precedent to promotion any longer holds good in the case of either officers or non-commissioned officers.

Officers, N.C.O.'s, and privates of the regular army or the reserve, as well as of the territorial army or the reserve of the territorial army, may be transferred from and to any of the said armies without restriction.

Military authorities are entitled to requisition horses, carriages, and motor-cars, when necessary to the organisation of defence.

Military courts have jurisdiction not only in the case of the crimes which are provided for by the Military Code, but also in that of certain crimes provided for by the Penal Code; specially in the case of homicide, grievous wounding, sexual offences, and arson.

Navy.—French trading and pleasure boats, shipping craft and tackle, as well as supplies and cargoes on board the said boats, provided such supplies and cargoes belong to Frenchmen, may all be requisitioned. If the cargoes or supplies belong to aliens, whose country does not exempt France from the right of requisition, or if they are useful for purposes of defence, though not subject to the right of seizure, and are found on board enemy vessels, then they

too may be requisitioned. The officers and the crew may, where a ship is requisitioned, be called upon to serve.

Cadets who have been one year at the Naval College are placed on the same footing as under-boatswains (seconds maîtres d'équipage), and receive the pay of midshipmen.

Airships.—No flying is allowed throughout France, Algeria, Tunis, and the Colonies, except by Government machines.

Financial Measures.—All loans which are needed for the national defence may be provisionally opened by decrees made in the Conseil d'État after approval by the Council of Ministers.

The amount of the bank-notes issued by the Bank of France is raised from 6,800,000,000 francs to 12,000,000,000. In the case of the Bank of Algeria, the number is raised from 300,000,000 to 400,000,000 francs. Payment in cash cannot be demanded from the banks.

Treasury bills (bons du Trésor) bear the words "Bons de la défense nationale," and are received in payment of subscriptions to future loans with preferential rights to subscribers to the extent of the amount of the bills. They are redeemable at par with no deduction of interest for the time still to run.

Departments and cities may be authorised by decree of the Conseil d'État to issue bills (bons). The city of Paris is authorised to issue municipal bills to the extent of a sum of 120,000,000 francs. The repayments to be made by savings banks are limited to 50 francs a fortnight *per* depositor.

The Minister of Finance is authorised to lend the Bank of Montenegro 500,000 francs; the Serbian Government, 90,000,000 francs; the Belgian Government, 250,000,000 francs.

Economic Measures.—Exportation of products needed for food or useful in the defence of the country is prohibited, while their importation is encouraged by the abolition of import duties.

In order to make the blockade effective, measures similar to those taken by Great Britain have been adopted in connection with contraband.

To facilitate the carrying on of business, payment of negotiable instruments is postponed, withdrawals of deposits in cash are restricted; and the payment of dividend warrants (coupons), as well as repayment of debentures (obligations), of companies formed under the French Law or of departments, *communes*, and public

institutions may be deferred; similar postponement is allowed for the payment of sums due under insurance contracts entered into prior to August 4, 1914, and also for the redemption of the said contracts. Assurances against accidents to workmen are excepted and continue to be subject to the former law.

Prescription, presumption, and delay arising in civil, commercial, or administrative matters are suspended.

Payment of the rent in the case of leases of small houses in towns is postponed; in the country, where the farmer has been mobilised, the beginning or expiration of his lease is postponed.

Liability of railway companies for the safe carriage of commercial goods can be enforced only where there has been gross neglect (faute lourde) on the part of their servants, and such gross failing cannot be ascribed to the state of war.

During the continuation of the war the State may insure against war risks the hulks of ships flying the French flag and registered in a French port, provided they have been insured against ordinary risks to the extent of 25 per cent. of their value. Similarly their cargoes, as well as those imported by neutral or allied ships, may be insured, provided ordinary risks have been insured against.

German, Austrian, and Hungarian insurance companies against accidents to workmen, and such life assurance companies, are administered by sequestrators appointed by the Ministre du Travail.

No trading is allowed with any subject of, or any person residing in, the German and Austro-Hungarian Empires. No subject of the aforesaid Empires is allowed directly or intermediately to trade on French territory or on territory under French protectorate.

3. GERMANY.

[*Contributed by* E. J. Schuster, Esq., LL.D.]

General Observations.—The following survey distinguishes between the legislation preceding the war, and the war legislation. As regards the year 1913 the whole material was at the writer's disposal, whilst in respect of the year 1914 he has laboured under the difficulty that the official text of the statutes was no longer forwarded to him after the outbreak of war, and that in this way even some of the statutes passed before the outbreak of war may have

escaped his notice. As regards the war legislation the writer hopes that all the more important enactments published before the end of 1914 are referred to in the following pages, but the material even for that limited period is so large that some matters of importance may have been overlooked. Some day—may it not be too distant!—when the ordinary channels of communications are reopened, it will be possible to fill up such gaps as have been left, and to follow the war legislation in its entire development.

Legislation prior to the Outbreak of War.

Patents and Trade Marks.—A statute to carry out the revised Paris Convention as to Industrial Property introduces some alterations as regards the Law of Patents, Designs, and Trade Marks rendered necessary for the purpose of bringing German law into conformity with the revised Paris Convention agreed upon at Washington between the contracting Powers (Austria-Hungary, Belgium, Brazil, Cuba, Denmark, St. Domingo, France, Great Britain, Italy, Japan, Mexico, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Tunis, United States of America) on June 2, 1911.

Copyright.—A Copyright Convention between the German Empire and Russia was entered into on February 28, 1913, and ratified on May 14 of the same year, adopts, as between Germany and Russia, most of the provisions of the Berlin Convention (to which Russia is not a party). The following are the principal points of difference:

(*a*) *As to Duration of Copyright.*—The extended period of protection (fifty years beyond the author's life) introduced by the Berlin Convention (subject to the right of any contracting party to establish a shorter period) and adopted by the British Copyright Act, 1911, has not been adopted in Germany. The Convention provides that the law of the country in which protection is sought is to be decisive as to the period of protection, but so that the period of protection shall not be extended beyond the date at which the copyright expires in the country of origin.

(*b*) *As to Protection against Unauthorised Translation.*—Under Art. 8 of the Berlin Convention the protection against translations continues during the whole period during which the original enjoys protection of general protection and is not made conditional on the

express reservation of rights. Under the Convention between Germany and Russia the maximum period of protection is ten years, and this is made conditional (1) on the express reservation of rights on the title-page or in the preface; (2) on the author himself causing a translation to be published within a period of five years (reducible to three years in the case of scientific books).

(*c*) *As to Protection of Products of Photography.*—Under Art. 3 of the Berlin Convention the protection of products of photography is not made subject to any condition. Under Art. 12 of the Convention between Russia and Germany the protection is not granted unless each copy is marked with the author's or publisher's full name and address.

White Slave Traffic.—A Convention which was entered upon between Austria-Hungary, Belgium, Brazil, Denmark, France, Germany, Great Britain, Italy, Netherlands, Portugal, Russia, Spain, and Sweden on May 4, 1910, and ratified by Germany on August 23, 1912, binds the contracting parties to declare certain offences connected with the White Slave Traffic as extradition offences. Accordingly a statute was passed to carry out that provision by enacting that these offences shall be deemed extradition offences as between Germany and such other countries as shall from time to time be mentioned in that behalf by public notification on the part of the Imperial Chancellor. Such a notification was made on February 7, 1913, as regards Great Britain, the Netherlands, and Spain.

Maritime Collisions.—The provisions of the Commercial Code in respect of collisions at sea are modified in certain respects by this statute. The modifications mainly concern matters of detail.

Pensions.—A statute as to pensions for War Invalids concerns persons invalided in the war of 1870, and in previous wars, and raises the yearly pension of each invalided person to 150 marks. The pension is only awarded on proof of the need of assistance. The statute provides that "on the consideration of the question as to the fitness for the receipt of assistance, the applicant's political attitude is to be left out of account." This provision throws an interesting light on the views of the legislature as to the motives likely to influence the authorities by whom these pensions are awarded.

National Defence.—A statute imposes a progressive tax for the

purposes of national defence on the capital and income of every person domiciled in Germany the value of whose property exceeds 10,000 marks. The tax on capital rises from 0.15 per cent. to 1.50 per cent., and the tax on income (which rises concurrently with the ordinary income tax) rises from 1 per cent. to 8 per cent. Thus, a person with a capital of 9,000,000 marks (assuming his income to be 6 per cent. of his capital, viz. 540,000) had to pay 135,000 on his capital and 43,200 on his income. Persons not domiciled in Germany are assessed for the tax with reference to all real property situated in Germany and to the working capital of any business carried on in Germany. In the case of companies the tax on capital is payable in respect of property represented by any reserve funds or undivided profits, but no tax is payable on the income of companies. Certain reductions are allowed in the case of persons whose sons have complied with their duty as to military service. The tax is payable by three yearly instalments, but anticipated payments are permitted, and interest is to be allowed thereon. The proceeds of the tax during the first year were estimated at about 417,000,000 marks—a sum which, considering the present rate of German war expenditure, is not nearly so imposing as when it was mentioned for the first time.

Increment Tax.—This newly imposed tax was not intended to be collected before 1917, and, having regard to the financial upheaval caused by the war, it must be doubtful whether the provisions relating to its assessment and collection will not be subject to considerable modifications before they come into force, if they will ever come into force. The statute is, however, interesting as introducing a novelty into the existing systems of taxation. The object of taxation is the increase in the value of the fortune owned by any individual, whether such increase be due to the rise in value of particular parts of the owner's property, or to saving, or to the acquisition of property by way of gifts or inheritance. For that purpose triennial valuations have to be made; the first of such valuations was to have been made on January 31, 1913, and the next on January 31, 1916, and the first tax was to be paid on the increase of value (if any), shown by a comparison of these two valuations. The tax is progressive, $\frac{3}{4}$ per cent. being the lowest and $2\frac{1}{2}$ per cent. being the highest rate.

Nationality.—A statute which considerably modifies the former

law, more particularly with reference to the provisions as to the loss of German nationality, requires a more detailed explanation than can be given within the limits of this general survey. It is hoped to give consideration to it in a later issue.

Contracts in Restraint of Trade.—A statute modifies ss. 74–76 of the German Commercial Code, which deals with contracts in restraint of trade entered upon by commercial clerks for the benefit of their principals. It provides that such contracts are invalid unless made in writing, and also compels the principals to pay a certain percentage of the former salary while the duty to abstain from competition continues. This percentage increases from year to year. The maximum period for which the restraint may be imposed was three years as under the old law, and this provision remains unchanged.

War Legislation: Statutes.

Loan Banks.—A statute of August 4, 1914, provides for the creation of government loan banks throughout Germany and authorises such banks to grant loans against non-perishable goods of all kinds, or stock exchange securities, or other negotiable securities, and to issue currency notes to the borrowers. These currency notes must be accepted as legal tender by all public authorities, but there is no compulsion to accept them in private commercial intercourse.

Imperial Forces.—A statute of August 4, 1914, provides that all civil proceedings concerning any party belonging to any mobilised armed force or concerning any person whose statutory agent (guardian, curator, etc.) belongs to the mobilised armed forces, are to be stayed while the employment with the forces continues.

Maximum Prices.—A statute of August 4, 1914, together with the rules issued thereunder, enables the administrative authorities to fix maximum prices for articles of daily consumption and for other objects, and to compel any person who is in possession of objects for which a maximum price has been fixed to sell such objects to the competent authority.

Public Economy.—A statute of August 4, 1914, enabling the Federal Council to issue Ordinances in relation to all matters concerning public economy, has practically substituted the Federal Council as sole legislative factor in the place of the usual legislative

machinery during the continuance of the war. As there is hardly any subject of legislation which does not in some measure affect public economy, the legislative powers of the Federal Council are in effect unlimited, and the Federal Council has made ample use of these powers. A summary of the more important Ordinances issued under these powers in 1914 is given below.

Ordinances.

Moratorium.—The Ordinances of August 7 and 18, 1914, are merely of an enabling nature, and have similar effects as the British Courts (Emergency Powers) Act. They enable the Court to grant an extension of time for the payment of money debts for a period not exceeding three months, and also to declare that the contractual or statutory effect of the non-payment of any money debt is to be suspended for a period not exceeding three months.

A real moratorium exists, however, as regards all money claims which had risen before July 31, 1914, in favour of persons domiciled outside of the German Empire (whether allies, neutral, or enemies).

By an Ordinance of August 7, 1914, the Federal Council postponed the maturity of all such claims to October 31, 1914, but subsequent Ordinances have been issued from time to time extending the period. The last of these Ordinances which the present writer has seen extends the time to October 31, 1915, but he has every reason to assume that a fresh postponement has since been ordered, and will be renewed from time to time as before. A successor in title to any foreign creditor who acquired the foreign creditor's right after July 31, 1914, is in no better position than his predecessor.

A still more far-reaching postponement of claims results from the Ordinance of August 10, 1914, as to the maturity of bills of exchange payable in Germany, but drawn outside of Germany on or after July 31, 1914. By the original Ordinance the maturity of these bills was postponed for a period of three months, and this postponement was by a subsequent Ordinance continued from time to time. While in the case of ordinary money claims the postponement is not available against German transferees whose title accrued before July 31, 1914, the postponement of the maturity of bills of exchange operates against German holders even if the bills were acquired by them before July 31,

Trading with the Enemy.—There are no rules of German law corresponding to the general rules of British law prohibiting trade and other intercourse with alien enemies. Trade with the enemy is in fact permitted except in so far as there is no express prohibition. The prohibitions issued so far have always purported to be issued by way of retaliation against particular countries. The most far-reaching of these prohibitions was put into force by the Ordinance of September 30, 1914, which was originally directed only against the British Empire, but which by subsequent Ordinances was extended to France and Russia.

The Ordinance makes it a penal offence (1) to make payments to any of the enemy countries affected by it, either in money or by means of negotiable instruments; (2) to export goods as to which a prohibition of exportation from Germany exists to any such enemy country; (3) to send goods as to which such a prohibition exists from any other country to any such enemy country. The prohibition as to payments is subject to certain exceptions.

Payments in Germany for the benefit of any person domiciled in an enemy country are not prohibited, but the time for the payment of any debt owing to any such person or for the performance of any obligation affecting proprietary rights incurred for the benefit of any such person is indefinitely postponed. The alien enemy may sue in a German Court, but the defendant in any such case is entitled to ask for an indefinite stay of proceedings. Rights affecting property, *e.g.* the right to obtain a divorce, or the custody of a child, may, however, be enforced by an alien enemy notwithstanding the war.

As to the control of business undertakings in which alien enemies are interested there is a parallel development on this subject in all belligerent countries. The tendency is towards greater stringency: *Acquirit vires eundo.*

The German Ordinance of September 4, 1914, leaves it to the State Authorities to appoint inspectors for any undertaking "which is managed or controlled in an enemy country or the profits of which are either wholly or partly to be remitted to an enemy country." An inspector has power (1) to prohibit any particular transaction or any particular communication; (2) to inspect books, documents, and stock-in-trade and negotiable instruments; (3) to require information on all matters affecting the business. The

managers of an inspected undertaking are subject to penalties if they make money payments or transmit other property to an enemy country, but the inspectors are in each particular case authorised to relax this rule.

An Ordinance of November 26, 1914 (which originally only referred to French undertakings, but which by an Ordinance of December 22, 1914, was extended to British undertakings), is of a much more far-reaching kind, but it affects a more limited class of undertaking—that is to say, only those undertakings of which the capital "either wholly or in a preponderating proportion" belongs to French citizens or British subjects. In the case of any such undertakings an administrator may be appointed whose powers take the place of the powers of the owners of the undertaking, and who may either continue the business of the undertaking or confine his action to the carrying out of pending transactions. In the case of undertakings having their principal establishment in Germany the administrator may, on the application of any German partner or shareholder, but subject to the consent of the State Authorities, proceed to the liquidation of the undertaking.

The question as to whether any particular undertaking is to be placed under an administrator in the above-mentioned manner is determined by the State Authorities subject to the consent of the Imperial Chancellor. The authorities have power to inquire into the real facts as to the beneficial ownership of the shares in any such undertaking.

4. NORWAY.

[*Contributed by* E. CORNELIUSSEN, ESQ.]

Apart from war legislation, the laws of 1914 have not been of great general interest. The following may be mentioned:

Concessions.—The law of July 3 takes a further step towards preventing the monopolisation of the natural resources of the country. Limestone has of late found an extensive use as a raw material in the electro-chemical industry, and, as a monopoly by that industry was feared, the law has made a state concession necessary in order to acquire the ownership or lease of properties capable of producing more than 100,000 tons of limestone in all. A contract for delivery extending over more than five years is subject

to the same requirement. Marble and dolomite are considered as limestone within the meaning of the law. From this statute the Norwegian and state communes are exempt, but private Norwegian citizens only when the acquisition takes place through marriage or inheritance or a disposition from parent to child.

Shipping.—In pursuance of an agreement come to at an international conference in London, two laws were passed on August 21, for the purpose of creating uniform international rules with a view to obtaining greater safety at sea, the one dealing with the state control of a ship's seaworthiness, the other providing for safer navigation.

War Legislation.—When war broke out the Storthing (the House of Representatives) was not in session, but was immediately summoned. Before the members could meet matters were provisionally dealt with by royal orders, the Constitution conferring on the King a right to legislate in certain matters when the Storthing is not assembled. As, however, these orders were soon displaced by statutes which are dealt with below, they are here only mentioned.

Practically all statutes of general interest were passed on August 18. Among them were the following :

A law authorised the fixing of maximum prices for different commodities including, *inter alia*, foodstuffs, coal, and mineral oils, and also giving power to limit the quantity to be sold by retail to one consumer of such goods. Stocks of goods for which maximum prices have thus been fixed may be compulsorily acquired by the State or the communes. Goods so taken must be paid for according to maximum prices. By the same law the sale of beer and spirits was prohibited, a prohibition which was very considerably relaxed later on. Further, a prohibition was placed on the export of certain specified goods, among which are gold, silver, and foodstuffs, the law also empowering the Secretaries of State to further extend the list.

A law suspended the payment of money claims (moratorium). The suspension, generally for one month, was not restricted to bills or negotiable documents, nor to foreign claims. The only exceptions were certain claims enumerated by s. 6, among which State and municipal rates and taxes, wages, and generally all claims due on or after August 5, 1914, the date of the first moratorium created by royal order. During the suspension no legal steps could be taken for the enforcement of claims suspended. By the same law of

August 18 the King was empowered to extend the moratorium beyond the first month if so required. And an extension was granted by a royal resolution dated September 2 dealing, however, with foreign claims and bills of exchange only. A second resolution of October 3 was restricted to foreign claims. In the result no claim the payment of which had been suspended by the moratorium would become payable on a date later than December 6, 1914. As will have been seen, the statute confined itself to dealing with money claims. No law was passed suspending the delivery of goods, and the question to what extent the sellers were by the war discharged from their duties to make deliveries under contracts entered into in time of peace will therefore require to be decided under the law as it stood when war was declared. And, as the law was not altogether clear on this point, the question of the seller's liability in case of non-delivery has been the subject of much discussion, and a series of law-suits have been brought; but no judgment of importance as yet given. In most cases the sellers had tried to guide themselves by war clauses. But it has proved extremely difficult to say how far the protection goes, particularly in cases where the seller's own contract for supply had been broken, cancelled, or suspended, but where it would still have been possible for him to get a sufficient supply from other quarters, though at greatly advanced prices, which would have involved a considerable and often enormous loss.

A law was passed for the better protection of secrecy in matters relating to the defence of the realm.

Another was enacted for suspending the payment of royalties due on patents. The reason of the suspension was that otherwise the war might work a forfeiture of many patents held by foreign subjects, who were now unable to pay or unable to attend to their business.

A law was passed concerning the Norges Bank. A general power was conferred on the King to suspend in case of emergencies the duty of the Norges Bank to exchange the bank notes in gold. By a royal resolution of even date such suspension was temporarily granted.

The law of August 21 created an organization for mutual and obligatory insurance of Norwegian ships, a few classes of ships only being excepted; the premium to vary between 12 and ½ per cent. per annum. The State guarantees 80 per cent. of all liabilities in-

curred by the concern. On the termination of war the balance, if any, will be distributed between the insured in proportion to the premiums paid; a total loss will be contributed to in the same proportion. If Norway becomes a belligerent the insurance ceases to operate as from that day.

5. UNITED STATES OF AMERICA—FEDERAL AND STATE LEGISLATION.

[*Contributed by* R. NEWTON CRANE, ESQ.]

Federal Legislation.—Although nearly 400 Acts and joint resolutions were passed during the sessions of the Sixty-third Congress before its adjournment in March 1915, nearly all of them were local in character. The principal exceptions are as follows:

Unfair Competition.—A Commission was established with authority to prevent persons, firms and companies, except banks and common carriers, from using unfair methods of competition in commerce. Five Commissioners are appointed, not more than three of whom shall be of the same political party, who shall give their time and services exclusively to the work of the commission, for which they are to receive $5,000 each, as salary. Whenever they have reason to believe that any person is using unfair methods of competition they may serve upon him a complaint to that effect, whereupon an inquiry shall be opened at which the accused may be represented by counsel. If the Commissioners are of the opinion that the complaint is well founded they shall state their findings to the accused, with an order requiring him to desist from such unfair methods. If the accused fails to obey the order the Commissioners may apply to a United States Circuit Court of Appeals for the enforcement of the order. These findings of the Commissioners as to the facts, if supported by evidence, are conclusive. The proceedings in the circuit court shall have precedence over other cases therein, and shall in every way be expedited. In addition to this duty the Commissioners are empowered to gather information concerning the business, conduct, practices, and management of any company engaged in commerce, and its relation to other companies and persons; to require companies to file with the Commission under oath,

annual or special reports as to their organisation, business, conduct and practices in relation to other organisations of persons; to investigate, under the direction of the President, or either house of Congress, the facts relating to any alleged violation of the anti-trust acts by any corporation; to make annual and special reports to Congress submitting therewith recommendations for additional legislation, and to investigate trade conditions in foreign countries which may affect the foreign trade of the United States. Several penalties are provided for refusing to give evidence before the Commission, or for wilfully making any false return to the Commissioners.

Trade Competition and Restraint of Monopolies.—The existing law against unlawful restraints and monopolies has been supplemented by an Act which makes it unlawful for any person engaged in commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities sold for use or resale within the United States or other places under its jurisdiction, where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce. One section of the Act declares "that the labour of a human being is not a commodity or article of commerce." The acquisition by one corporation, directly or indirectly, of the whole or any part of the share capital of two or more corporations engaged in commerce is forbidden, where the effect of such acquisition may be substantially to lessen competition between such corporations or tend to create a monopoly. It is provided that from and after two years from the date of the Act no person shall at the same time be a director or other officer or an employee of more than one bank or trust company having deposits or capital or surplus aggregating more than $5,000. No bank in any two of more than 200,000 inhabitants shall have as a director or other officer or employee any such officer of any other bank in the same place. As a corollary of the labour troubles resulting from strikes of railway employees, there is imported into this Act a provision that no preliminary injunction shall be issued without notice to the opposite party, and that every order of injunction shall set forth the reasons for the issue of the same in specific terms and reasonable detail. No injunction shall be granted in any controversy between employers and employees growing out of a dispute concerning terms or con-

ditions of employment, unless necessary to prevent irreparable injury to property for which there is no adequate remedy in law.

Restrictive Dealings in Opium.—After March 1, 1915, every person who produces, imports, manufactures, compounds, deals in, dispenses, sells, distributes, or gives away, opium or cocaine leaves or any compound, derivative, or preparation thereof, must register with the revenue authorities his name and place of business. At the time of registration he must pay a tax, which is to be collected annually thereafter, and all dealings in the commodities mentioned are to be in writing on forms to be supplied by the revenue authorities at a fixed price. These forms, with a note of the transactions entered into by them, are to be preserved for two years and accessible to the revenue authorities during that period.

Consular Licensing of American Pharmacists in China.—The Act of March 3, 1915, provides for the licensing of certain qualified American pharmacists in the consular districts of the United States in China. No person may be so licensed who is addicted to the use of any narcotic or stimulant, or who suffers from any mental or physical disease. When licensed he may not sell, furnish, or give away any drug containing more than two grains of opium, one-quarter grain of morphine, or one-quarter grain of cocaine, or two grains of chloral hydrate, unless upon the original written prescription of a qualified medical man, dentist, or veterinary surgeon.

American Mercantile Shipping.—This Act, which attracted wide attention and aroused the antagonism of many ship-owners in America and abroad, is entitled, "An Act to promote the welfare of American Seamen in the Merchant Marine of the United States; to abolish arrest and imprisonment as a penalty for desertion, and to secure the abrogation of conflicting treaty provisions in relation thereto, and to promote safety at sea." It was passed on March 4, 1915, but was not to take effect as to American vessels until November 3, 1915, and as to foreign vessels until March 3, 1916. It provides that the master of a vessel must keep up the full number of his crew by shipping men of the same grade to take the place of those who have deserted or been disabled, and report the same to the consul at the first port at which he arrives. It directs that the sailors while at sea shall be divided into at least two, and the firemen into at least three, watches, which shall be kept on duty successively during ordinary work, and that seamen shipped as sailors shall not

be required to do duty as firemen or *vice versa*. In port nine hours, inclusive of the anchor watch, shall constitute a day's work, and there shall be no unnecessary work on Sundays or the American national holidays. If the master does not observe these regulations the seaman shall be entitled to discharge with full pay. In vessels in the coasting trade the crew shall be paid their wages within two days after the termination of the hiring agreement, and, in those making foreign voyages, within twenty-four hours after the cargo has been discharged. A master who refuses or neglects to pay wages within the time prescribed shall pay to each of the crew an additional sum to equal two days' pay for every day so in default. Every seaman shall be entitled to demand one-half part of the wages which he shall have then earned at every port where the vessel shall discharge or load cargo. Any failure to comply with this demand shall entitle the seaman to his discharge with full wages. Upon a complaint in writing signed by the first and second officers, or a majority of the crew, in a foreign port, that the vessel is in an unsuitable condition to go to sea, or that the crew is insufficient to man her, or that her provisions are not, or have not been, sufficient or wholesome, the consul shall appoint three persons to examine into the complaint, and he must be governed by their report. Every ship of over 100 tons constructed after the passage of the Act shall provide a space of 120 cubic feet and not less than 16 square feet, for each seaman, who also shall have a separate berth. The space so appropriated shall be properly lighted, heated, ventilated, and protected from the weather and shut off from the effluvium of cargo and bilge water. A heated lavatory shall be provided, with at least one washing outfit for every two men of the watch, and with hot water for firemen. Flogging and all forms of corporal punishment are prohibited. To avoid the exactions of "land sharks" it is made unlawful to pay a seaman his wages in advance of the time when he has actually earned them, or to give a note or order for them. This section is applicable to foreign vessels in American waters, as is also that which requires the provision of life-saving appliances, in accordance with the recommendations of the International Convention on this subject which recently met in London. The Act finally declares that, in the judgment of Congress, articles or treaties which provide for the arrest and imprisonment of officers and seamen deserting from American vessels

in foreign countries, or from foreign vessels in American ports, ought to be terminated, and the President of the United States is directed to give notice to that effect, within ninety days after the passage of the Act, to the foreign Powers with which the American Government has treaty relations in conflict with the Act.

Presidential Primaries.—In his first message to the Sixty-third Congress President Wilson recommended a change in the procedure in the election of President by providing that candidates for the office should be nominated at primary elections to be held in the various States. This would do away with the present plan, which involves the holding of nominating conventions by the political parties. These conventions are usually held about five months before the election every four years in November. They involve great expense, and in the long interval before the election cause considerable dislocation of business. Although a bill was introduced to carry out President Wilson's suggestion it failed to command the necessary support, as grave doubts were raised whether Congress had the power to make so radical a change. Subsequently a proposal was made to amend the Federal constitution by abolishing the Electoral College and substituting in its place a system of direct election of the President by the people. A resolution providing for the submission of this amendment to the constitution to the several States failed to secure the three-fourths majority necessary for the purpose. Resolutions have been adopted by several State legislatures urging Congress to renew the proposal.

The State Legislation is of the usual volume, but for the most part has been directed towards amplifying and improving measures previously passed, particularly with reference to the "initiative, referendum, and recall," previously described in this Journal, child labour, the employment of women, old age pensions, the regulation of the care and the isolation of tuberculous persons, the restriction of the sale and consumption of intoxicants, and kindred matters. The more notable subjects are the following:

State Prison Reform.—For several years efforts have been made in a number of States to improve the physical condition and the moral surroundings of the inmates of penitentiaries in a number of States. The movement has made greater headway in the West, but all over the country commissions have been appointed by the legislatures to consider these questions. It is claimed that signally

successful results have been obtained by releasing prisoners on parole for outdoor work, and particularly on farms connected with the prisons. The New York prison authorities have, during the past year, operated a farm of 1,100 acres, upon which the experiment is being made of releasing on their honour over 2,000 convicts. The number of escapes and attempted escapes, thus far, has been less than one-half of 1 per cent.—11 out of a total of 2,095 prisoners, and less than 40 were returned to imprisonment for bad behaviour. These results have encouraged the Commissioners to purchase 800 acres for a State Industrial Farm Colony, and to erect a State reformatory for misdemeanants on another farm, while the City of New York has acquired 600 acres for a city reformatory. Massachusetts has a State farm of several hundred acres for tramps and vagrants, and is planning an extensive prison farm to replace the present penitentiary. New Jersey has purchased 1,000 acres on which farm buildings will be erected for the convict farm workers. Pennsylvania, the District of Columbia, Ohio, Indiana, Illinois, and Minnesota already have prison farms. In Colorado, Oregon, and Washington thousands of prisoners from State institutions are working on the highways, housed in road-camps. It is claimed that, as the majority of those convicted are of an age when a trade or useful occupation may be learned, and when they are largely amenable to moral influences, there is a great advantage in permitting them to work in the open under a wide latitude of self-control.

Villages for Feeble-minded.—The State of New York has followed the precedent of the State of New Jersey in the segregation of the feeble-minded in settlements, or villages, in the open country or State lands. The first village is intended, when completed, to care for 3,000 such defectives. Four dormitories have already been opened, capable of housing seventy persons each. Early in July last eighty children, taken from the cramped quarters in the State institutions where they had been detained, were the first to be placed in the new buildings, which subsequently were all filled by other children and adults. The inmates are divided into four groups, according to their age, sex, and degree of improvability. One dormitory is filled with boys, none of whom is over sixteen years of age. Their life is made up of outdoor work and play, the latter including baseball, football, swimming, and skating. Another dormitory houses the groups of low-grade male adults who will never be

able to do a great deal of useful work, and whose wants must be supplied by others. In a third is a group of high-grade adults who are capable of doing a great many tasks such as fall to the lot of the farmer and the rudimentary artisan. A fourth building is occupied by women and girls, who are similarly graded, and who are encouraged to such tasks and play as lie within the compass of their understanding. The principle upon which the law passed to provide this settlement is based is that the greatest economy may be secured through the co-operation of those who are thus segregated, and by the utilisation of such mentality as they possess, and also in the cultivation of their happiness and their physical development in healthful and cheerful surroundings.

Single-chamber Legislatures.—The Governor of Kansas in 1913, in his annual message to the legislature, proposed that the bicameral system of legislation which prevails in that State, and in every State in the United States, should be abolished, and that a single chamber be constituted in its place. Although Kansas is one of the most advanced, or "progressive" States, this recommendation did not find favour, and no action resulted. In Oregon, however, upon the recommendation of the People's League, the legislature submitted a similar proposition to popular vote, together with two other proposed amendments to the State Constitution, viz. one for a "short ballot" and the other for proportional representation in the electorate. All three of the proposals were rejected.

The "Short Ballot."—In nearly all of the States there has been discussion of what is popularly called the "short ballot." At present almost every office, whether legislative, judicial, or executive, is filled in all of the States by an election by popular suffrage. In some of the States this extends to such menial offices as constables and janitors. Not only is the Governor elected, but the heads of the executive departments, who properly constitute his cabinet, are also elected, and clerks of courts are elected as well as the judges. In addition to the State officers, the country and municipal officers are also elected. Most of the elections for all these offices are held upon the same day, and the names of all the candidates are placed on one balloting-paper. When the State, county, and municipal election coincides with the election of the President and members of Congress, the ballot must necessarily contain the names of considerably more than 100 candidates for the various offices. In many

cases the number is much greater, and the ballot-paper is often more than two feet in length, unless the names are arranged in parallel columns. It is obviously impossible for any elector to know all of the candidates or to ascertain the relative fitness of the candidates for the office for which they offer themselves. The proposed reform of the " short ballot " is not only to reduce the number of candidates, but it is based upon the principle that the chief executive officers should be made responsible for the selection of the proper subordinate officials under them. This change, however, does not appear to meet with the wishes of the electors, or, perhaps more properly speaking, those of the political leaders, who find the great length of the present ballot and the confusion resulting from it safeguards to their power. The " short ballot " proposal was submitted to the electors of Ohio in 1913, and was rejected by a majority of nearly two to one. In November 1915 a new constitution, which had been prepared with great care and which embraced this reform, was voted upon in New York, and very decisively defeated.

Safety of Workmen.—Among the numerous laws enacted to enforce provision for the safety of workmen in various industries, probably the most novel is that passed by the legislature of New Jersey. It provides that, where compressed air is used in excavations for tunnels or in caissons or elsewhere, there shall be furnished and placed in the charge of a competent person, time-pieces, gauges, iron ladders, electric lights, properly lighted dressing-rooms, hot and cold shower-baths, and separate rooms for drying clothes. A qualified physician, and, in cases of air-pressure above the normal, nurses, shall be in attendance at all necessary times. A physical examination must be made of every workman before entering upon the work, and regularly every three months thereafter. If he is absent for more than ten days there must be a fresh examination before he is permitted to resume work. During the first twenty-four hours of his service the new employee is permitted to work only half time of the eight hours permitted to the experienced workman, and he must be re-examined by the physician in attendance after his first period of work. If the maximum air-pressure above normal reaches 17 lbs., a properly heated, lighted, and ventilated double compartment is required, with a communicating door at least 6 feet high. The compartments must be furnished with air-gauges, time-pieces, telephones, benches, and all necessary medical equipment. No

work is permitted, except in case of emergency, where the pressure exceeds 50 lbs. Generally the work periods are restricted to from one and one-half to eight hours, according to the degree of air-pressure.

Number of Jurors.—In Mississippi an amendment to the State constitution was adopted which provides for a verdict by nine or more jurors. In Colorado a proposed amendment that three-fourths of the jurors should return a verdict was defeated. In Nebraska an amendment authorising a verdict by five-sixths of the panel was rejected.

Death Penalty.—In Oregon an amendment to the constitution providing for a death penalty in case of murder was adopted by popular vote. The penalty is hanging, and not electrocution.

Municipal Government by Commission.—The movement for transferring the government of small municipalities from a mayor and councilmen to a small commission is growing rapidly throughout the United States. The apparent advantages are economy and freedom from political control. Under the ordinary system not only are the mayor and all executive officers paid for their services, but councilmen and aldermen and members of school boards and all other officials are given a considerable salary. Under the commission system the absolute control of civic affairs is entrusted to a small commission or committee of from three to seven members. In some instances the legislative functions of the Council are retained, and only the management of the various municipal departments is relegated to the commission. As municipalities generally have only such powers as are conferred upon them by the State legislatures, general acts, or amendments to the constitution, were necessary to enable the new plan to be adopted. Nearly all of the States have now given powers for this purpose to towns of a certain population, if the citizens so desire. Some idea of the popularity of the new movement may be gathered from the fact that, at the beginning of 1915, over 350 cities had adopted to a lesser or greater extent the commission form of government. The most populous and important city in which the experiment has been tried is New Orleans, with over 400,000 inhabitants, and its example has been followed by a large number of towns whose population exceeds 100,000. The movement began through a calamity to Galveston, which was overwhelmed by a destructive storm in 1900, and prostrated financially. A few public-spirited citizens were entrusted with the work of

re-building the place and re-establishing its municipal life. Their success was so marked that the politicians who had formerly controlled its affairs were thenceforward excluded from any voice in civic management. This result excited favourable comment throughout the Western States, and almost immediately other towns began to adopt what was, at first, known as the "Galveston plan."[1]

The City Manager Plan is another form of reformed municipal government. In this all executive affairs of the corporation are entrusted to an individual manager, who has absolute control, subject in certain cases to revision by a small council, selected by the citizens, for a longer term than is usual under the old system. In the 1913 Act of the Ohio legislature the "City Manager Plan" provides for a single-chamber Council, to consist of five members, in cities of less than 10,000 inhabitants, of seven members in cities from 10,000 to 25,000 inhabitants, and of nine members in cities having over 25,000 inhabitants, the Council being elected in all cases for a term of four years. This Council is to constitute a governing body with power to pass ordinances, adopt regulations, appoint a chief administrative officer, to be known as the "City Manager," approve all appointments of subordinate officials made by him, and constitute a civil service commission for the secure tenure of office by officials during good behaviour. According to the Bureau of Census reports, the only city of over 30,000 inhabitants organised under the "City Manager Plan" is Dayton, which has a population of 130,000. Some of the smaller towns of Ohio and a number of smaller municipalities in other States have adopted a similar system. In all instances the plan is said to be working very successfully, particularly where the most competent business man available has been selected for the position of manager. The chief advantages are economy in expenses and complete and harmonious co-ordination of the various departments of civic administration.

Optional Forms of City Government in New York.—The New York Legislature in 1915, by a general law applicable to cities in the State of certain classes, which embrace all but a few of the most populous, gave municipalities a modified form of home rule, by extending to them the right to select for their government one of no less than seven different simplified systems, among them being a limited single-chamber Council with an appointive city manager,

[1] For its adoption in British Columbia see *supra*, p. 209.

similar to the Ohio plan. Nearly all of these various plans of charter provide for the election of these limited councils at large, instead of by wards. They also do away altogether with the election by the citizens of the heads of bureaus or departments, who are appointed by the Council or the manager. This is, in effect, the authorisation of the "short ballot" in local politics, although the new constitution which provided this form of ballot for State affairs was rejected by a considerable majority at the November election. Probably the greatest gain in the new municipal system is the opportunity it affords for securing a better class of municipal administrators who will be largely independent of party political control.

6. SWEDEN.

[*Contributed by* SIEGFRIED MATZ, ESQ.]

Among the laws passed in Sweden in the course of the year 1914, the following may be singled out as having a title to general interest:

National Service.—Under the National Service Act of 1901, which was the law in force, every Swedish male was liable to military service from, and inclusive of, the calendar year in the course of which he attained the age of twenty-one, up to, and inclusive of, that in which he completed his fortieth year, the new National Service Act of September 17 has extended liability to military service to comprise also the calendar year in the course of which the age of twenty is attained, and to be prolonged until the expiration of the calendar year in the course of which he attained the age of forty-two.

Out of the total period eleven years are served in the first ban of the "beväring" (the regular conscript army), and four years in the second ban of the "beväring," after which the conscripts are drafted into the "Landstorm," where they complete their remaining period of service.

As regards the "combatant," or able-bodied conscripts belonging to the infantry, the period of training in peace time has been fixed at 340 days, namely, a preliminary training of 250 days commencing during the first year, and two further periods of training called "repetitionsövning" (in which the men are trained in larger units), each extending over thirty days during the second and third

years; furthermore, these conscripts are under obligation for certain years to take part in the training of the Reserves of the Landstorm. The period of service is longer for those that have been drafted into special arms of the service, or who are intended to become non-commissioned officers, as well as for those who on the ground of higher educational qualifications are to be trained with a view to a future commission.

Military and Naval Discipline.—The Army and Navy Discipline Act of October 23, 1914, which superseded the law of 1881, has imparted a decidedly more humane character to penal legislation in the military domain. Not merely have the grades of penalty in regard to a number of offences against discipline, particularly those of a more venial character, been lowered, and the application of the penalty of "sträng arrest" (close confinement in the dark) been restricted, but a new penalty for offences against discipline has been created, namely, "skärpt arrest" (strict confinement), which in a number of cases is intended to take the place of close confinement. This latter penalty is carried out in a solitary dark cell and is not to be imposed for a period exceeding six days,—an interval of one day to elapse after the first three days of confinement. "Severe confinement" is undergone in a *light* cell in solitude with a hard bed, and is not to be imposed for a period exceeding ten days.

Penalties for offences against discipline, including "confinement without close custody" and "confinement under guard," may be imposed in minor cases of offences against discipline, by the proper officer. The latter, however, is, as a general rule, not entitled to sentence an offender to "close confinement." When that penalty is deemed necessary, he shall submit the case to a Court-martial.

The Courts-martial Act of the same date established lower courts-martial called "krigsrätt," in conformity with similar institutions in civil law; one of these, called "regementskrigsrätt," must exist in every regiment, and must consist of two civil members, one of whom shall act as president, and two military assistants. The civil president shall be nominated by Royal appointment, and be selected, as a general rule, from among the Judges in the Court of First Instance.

In cases of crime of a more flagrant nature, it shall be incumbent on the local civil authority (the Provincial Governor) to appoint suitable counsel for the prisoner, when he demands one.

The supreme military court shall be the "Krigshovrätt," which shall consist of a separate department of the Court of Appeal called "Svea Hovrätt." It shall be composed of two members of the Court of Appeal, a special military counsel called "krigshovrättsrad," and two military members.

In dealing with cases which are sent up to the Supreme Court of Appeal ("Hogsta Domstol") from the Courts-martial, two military officers of high rank nominated by the King shall take part, according to the law of the constitution.

The civil members shall be five in number.

Aircraft.—The Act of September 7, 1914, prohibiting the passage of aircraft over Swedish territory, empowers the King to decree, when necessity arises, that no other aircraft shall be permitted to pass over Swedish territory than aircraft belonging to the Swedish State or employed for its account, and prescribes likewise that where aircraft traverse Swedish territory in defiance of this prohibition, the Police and Military Authorities shall be entitled to use the necessary means to stop the passage of the craft.

A Royal Decree was promulgated on the same day issuing the prohibition contemplated by the Act.

Aliens' Restriction.—Under the Restriction of Aliens Act of September 14, 1914, the Police Authorities shall be empowered to refuse admission to Sweden on their arrival in that country (or immediately afterwards) to certain aliens who have the manifest intention of gaining their livelihood by begging; or who may reasonably be presumed to be without means of decently supporting themselves; or who have been sentenced for forgery, theft, or fraud; or who have been guilty of professional gaming, prostitution, or of living on the earnings of prostitution, in cases where there is reasonable ground to apprehend that the alien in question will continue in the pursuit of his criminal activity.

The finding of the Police Authority may be appealed from to the highest local civil authority (the Provincial Governor).

The right of expulsion from Sweden of aliens resident there who are convicted of vagrancy, begging, professional prostitution, or living on the earnings of prostitution, or who have been sentenced for certain crimes or to certain penalties, devolves on the Provincial Governor, whose finding may be appealed from to the King. Should considerations of the safety of the realm or other State interests

call for the expulsion of an alien, the King is empowered to decree it.

A decision to refuse leave to admit an alien or making an Expulsion Order shall be executed forthwith; in the former case the person so expelled shall be conveyed to the country from which he has come; in the latter case, the person expelled shall be conveyed to his home country, or, where this is not feasible, to the country whence he has entered Sweden.

Provided that if the country to which an alien is thus to be conveyed is remotely situated, or if it be not his home country and he has been expelled thence, or if on his return there he would presumably be indicted or sentenced for a political crime, the execution of the decision shall *not* be made forthwith.

This Act has been supplemented by a Royal Decree of October 30, 1914, relating to the supervision of aliens in Sweden; this Decree, which applies in time of war or peril of war, (1) extends the authority of the Police as regards withholding leave of admission to aliens, and (2) renders it incumbent on aliens arriving in Sweden to apply for a Permit from the Police Authorities to reside in or travel through the country, and (3) prescribes a complete registration of the foreigners who have obtained permission to reside for a longer or shorter period of time in Sweden.

Control of Necessities.—The Act of October 9, 1914, relating to control over certain goods in time of war or peril of war, empowers the King, in case the price of certain necessaries should rise to an extent unwarranted by circumstances, to decree that in the voluntary sale of such goods a certain price fixed by Royal decision shall not be exceeded.

Similarly, the King shall be entitled, if in time of war or peril of war the supply of certain commodities is so scanty that their purchase or consumption might entail considerable difficulties in providing for requirements of great importance, to decree that holders of such goods shall be under obligation to make over the said goods to the Crown at their full value, as appraised by a Commission specially appointed for the purpose.

Subject to the same general assumption, the highest civil authority (the Governor) shall be entitled, in case maximum prices have been fixed for a certain commodity, in accordance with the above, and if a person holding a considerable quantity thereof

should refuse to part with the goods at the price fixed, to take steps for the sale of the goods for the account of the holder.

Moratorium.—The Moratorium Act of August 5, 1914, provided for the postponement, for a certain period, of debt incurred prior to that day, and which fell due for payment up to September 7, 1914, as a consequence whereof prosecution should not be made nor distress levied for such debt during the period of respite. Should the creditor's rights depend on a certain special measure being adopted within a certain time, the creditor's rights should be maintained, provided the measures in question were adopted within a certain period after the expiration of the period of respite.

The period of respite originally determined was extended by the Act of September 4, 1914. The latter, in addition, prohibited generally the sale of real or personal property under distress or forming part of bankrupt stock, as well as all kinds of sales of personal property held in pledge by the creditor.

The Act of September 18, 1914, empowered the King under certain conditions to decree a moratorium.

The period of respite for the payment of debt to creditors domiciled abroad, as well as the prohibition in certain cases against the compulsory sale of real property under distress or forming part of bankrupt stock, was extended by the Royal Decrees of September 18 and December 3, 1914, to hold good up to March 1, 1915. The prohibition against the sale of personal property enacted by the law of September 4 was restricted by the Royal Decree of October 23 to hold good only of shares, bankrupt stock, and bonds, and was prolonged by the Royal Decree of November 26 to March 1, 1915.

Agency.—The collaboration of the Scandinavian countries in matters of legislation, which had commenced, as early as the latter half of the nineteenth century, with laws relating to bills of exchange, cheques, shipping, and other commercial questions, has been carried down into the present century. In addition to the Purchase and Exchange of Personal Property Act, it has resulted in the Commission, Commercial Agents, and Commercial Travellers Act issued, as far as Sweden is concerned, on April 18, 1914.

Tobacco Monopoly.—The Royal Ordinance of December 15, 1915, relating to a State monopoly of the manufacture of tobacco, invests the Swedish State with the sole right to manufacture tobacco in Sweden. With certain exceptions, only the body to whom the

State assigns the right to exercise the monopoly [1] shall have the right to import manufactured and unmanufactured tobacco into Sweden and to purchase in Sweden tobacco grown therein. Manufactured tobacco (cigars, cigarettes, etc.) may be imported by dealers, subject, naturally, to payment of the duties.

Trade in tobacco wares is, in principle, left untouched by the monopoly.

[1] The monopoly has been made over to a Company called "Aktiebolaget Tobaksmonopolet."

INDEX TO REVIEW OF LEGISLATION.

PAGE

ABATTOIRS (South Australia) 92
Active service. *See also* Electoral Disabilities.
——— (New South Wales) 82
——— (United Kingdom) 28, 31
Administration. *See* Executors and Administrators.
Adoption (Denmark) 261
Advertisements, agricultural (Ontario) 217
——— regulation of (Canada) 196
——— ——— (Newfoundland) 230
——— ——— (Victoria) 106
Agricultural Bank (Queensland) 86
Agriculture. *See also* Co-operative Societies.
——— advances for (Trinidad and Tobago) 248
——— advertising (Ontario) 217
——— crop payments (Saskatchewan) 227
——— encouragement of (British Honduras) 242
——— ——— (Ontario) 218
——— farm implements (Saskatchewan) 227
——— seed advances (Victoria) 108
Aircraft, regulation of (Antigua) 251
——— ——— (Bermuda) 233
——— ——— (Cyprus) 259
——— ——— (France) 266
——— ——— (Gambia) 170
——— ——— (Gold Coast) 171
——— ——— (Grenada) 249
——— ——— (India) 38
——— ——— (Jamaica) 243
——— ——— (Malta) 258
——— ——— (Mauritius) 67
——— ——— (Montserrat) 252
——— ——— (St. Christopher and Nevis) 253
——— ——— (Sierra Leone) 172
——— ——— (Straits Settlements) 56
——— ——— (Sweden) 288
——— ——— (Trinidad and Tobago) 246
——— ——— (United Kingdom) 7

PAGE
Ajmer-Merwara, laws in. 46
Algeria, native affairs (France) 264
Alien enemies: patents of (United Kingdom) 15
——— shipping (United Kingdom) 8
——— trading by (Hong Kong) 55–56
——— ——— (Trinidad and Tobago) 247
Aliens, restrictions on (Australia) 70
——— ——— (Gold Coast) 171
——— ——— (Guernsey) 34
——— ——— (India) 48
——— ——— (Nigeria) 175
——— ——— (Ontario). 218
——— ——— (Sweden) 288
——— ——— (United Kingdom) 11–13
Animals. *See also* Dogs.
——— cruelty to (Newfoundland) 230
——— ——— (South Africa) 141
——— diseases of (Bermuda) 233
——— ——— (British Guiana) 185
——— stray (Saskatchewan) 227
Antiquities (Papua) 119
Apprentices. *See* Labour Laws.
Arbitration. *See also* Industrial Arbitration.
——— (East Africa Protectorate) 176
——— (Nigeria) 175
Architects, registration of (Manitoba) 213
Arms, surrender of (Burma) 45
Army. *See also* Billeting, Royal Forces.
——— accommodation for troops (Ireland) 32
——— discipline (Sweden) 287
——— (France) 265
——— (India) 38
——— military requisitions (United Kingdom) 15
——— pensions (United Kingdom) 25
——— tobacco for (Guernsey) 34
Articles of commerce. *See also* Foodstuffs.
——— ——— prices of (Queensland) 84
——— ——— ——— (Somaliland) 179
——— ——— requisition of (New Zealand) 122
——— ——— returns of (India) 50
——— ——— ——— (Mauritius) 68
——— ——— ——— (United Kingdom) 17

Banishment, return from (Federated Malay States) . . . 64
Bank Holidays. *See* Holidays.
Banking (Australia) 75
——— (British Guiana) 186
——— (Grenada) 249

PAGE
Banking (Trinidad and Tobago) 246
Bankruptcy (British Guiana) 185
——— (England) 3–4
——— (Northern Rhodesia) 169
——— (South Australia) 95–96
Bar Council (Mauritius) 67
Bees, inspectors of (Manitoba) 213
Bengal, laws applied to 42
Betting (Cape of Good Hope) 159
——— (Southern Rhodesia) 167
Billeting, army (United Kingdom) 8
——— naval (United Kingdom) 21
Bills of exchange: amendment of law of (India) 36
——— ——— ——— ——— (Mauritius) 67
——— ——— postponement of (United Kingdom) . . . 7
——— ——— presentment of (United Kingdom) . . . 24
Bills of sale (British Columbia) 211
——— (Western Australia) 117
Bounties, iron and steel (New Zealand) 134
Bread, sale of (Bermuda) 233
British Honduras Supreme Court 241

CANALS. *See* Irrigation.
Carriage by sea: passengers (Victoria) 111
——— ——— steamer traffic (British Guiana) . . . 190
Cattle brands (British Columbia) 211
Censorship (Hong Kong) 53
——— (India) 47
——— (Jamaica) 244
——— (Newfoundland) 231
——— (Northern Rhodesia) 168
——— (Trinidad and Tobago) 248
Ceylon Town Guards. *See* Royal Forces.
Charities, land held by (South Australia) 100
——— trusts (Victoria) 110
Children, census of (Manitoba) 213
——— defective (England) 5
——— employment of (Manitoba) 213, 214
——— feeding of (England) 5
——— milk supply for (Scotland) 5
Civil procedure (Egypt) 255
——— ——— (Northern Territories) 172
——— ——— protection of suitors (Cyprus) 260
——— ——— stay of proceedings against members of forces (Germany) 271
Civil Service: defalcations (New Zealand) 123
——— discipline in (Seychelles) 68
——— pensions (Bahamas) 238

PAGE

Civil Service: pensions (British Guiana) 184
——— ——— (Falkland Islands) 192
——— ——— (Gambia) 169
——— ——— (St. Helena) 192
——— ——— (Seychelles) 68
——— ——— (Trinidad and Tobago) 246
——— ——— (Wei-hai-wei) 69
——— salaries (Bermuda) 233
——— ——— (South Africa) 145
——— widows and orphans' pensions (Fiji) 137
Closer settlement. *See* Land Tenure.
Coal mines, safety in (New Zealand) 135
Collisions at sea (Canada) 194
——— ——— (Germany) 269
——— ——— (Norway) 275
Colonial loans (Barbados) 240
——— ——— (British Guiana) 186
——— ——— (Dominica) 252
——— ——— (Montserrat) 252
——— ——— (Straits Settlements) 59
Commercial law, unification (Sweden) 291
Commissions of Inquiry. *See* Royal Commissions.
Companies (British Columbia) 212
——— (British Guiana) 185
——— (Canada) 194
——— (India) 38
——— licences for (Saskatchewan) 226
——— loan (Canada) 195
——— (Ontario) 222
——— (Trinidad and Tobago) 247
——— taxation (Ontario) 216
——— (Straits Settlements) 58
——— trust (British Columbia) 209–211
——— ——— (Canada) 195
——— (Western Pacific) 139
Constitutional Law. *See also* Parliament.
——— ——— decentralisation (India) 36
——— ——— Presidential primaries (United States) . . 281
——— ——— representation (Canada) 196
——— ——— single chamber legislatures (United States) . 283
Contraband (France) 266
——— (United Kingdom) 8, 14, 19
Contracts, effect of war on (Norway) 276
Conveyancing Acts, adoption of (Bahamas) 238
——— ——— (Victoria) 109
Co-operative societies, agricultural (British Columbia) . . . 211
——— ——— credit (Cyprus) 260
——— ——— credit banks (British Guiana) 187

PAGE
Co-operative societies (Northern Rhodesia) 168
——— ——— (Queensland) 86
——— ——— sugar works (Queensland) . . . 87–89
Copyright (Bahamas) 236
——— (Bermuda) 232
——— (Fiji) 138
——— (Gambia) 169
——— (Germany) 268
——— (Gibraltar) 257
——— (Grenada) 249
——— (India) 35
——— (Jamaica) 242
——— (Mauritius) 67
——— (Northern Rhodesia) 168
——— (St. Lucia) 249
——— (St. Vincent) 250
——— (Seychelles) 69
——— (Straits Settlements) 58
——— (Trinidad and Tobago) 245
——— (Wei-hai-wei) 69
——— (Western Pacific) 139
Coroners. *See also* Fire Inquests.
——— (Nigeria) 175
——— (Quebec) 225
Corps des Ecrivains (Guernsey) 34
Cotton, close season for (Montserrat) 252
——— contracts (Egypt) 256
——— industry (Northern Rhodesia) 167
Courts' Emergency Powers (United Kingdom) . . . 22, 23
Cremation, recognition of (Hong Kong) 54
Criminal appeal (Victoria) 105
Criminal Law, corporal punishment (Trinidad and Tobago) . . 245
——— (Cyprus) 260
——— death sentence (Bermuda) 232
——— ——— ——— (United States) 285
——— minor offences (Straits Settlements) 61
——— offences against Commonwealth (Australia) . . . 75
Criminal Law Amendment Act. *See also* White Slave Traffic.
——— ——— ——— ——— adoption of (Bahamas) . 236
——— ——— ——— ——— (East Africa Protectorate) . 177
——— ——— ——— ——— (Guernsey) 34
——— ——— ——— ——— (Fiji) 138
——— ——— ——— ——— (Newfoundland) . . . 230
——— ——— ——— ——— (Straits Settlements) . . 64
——— ——— ——— ——— (Trinidad and Tobago) . 245
Criminal procedure (East Africa Protectorate) 177
——— ——— (Egypt) 254
——— ——— (Fiji) 138

PAGE

Criminal procedure (Nigeria) 175
——— ——— (South Africa) 143–144
——— ——— (United Kingdom) 31
Currency (British Honduras) 242
——— (Canada) 198
——— (Egypt) 256
——— (Fiji) 138
——— (Gibraltar) 258
——— (Guernsey) 34
——— (Jamaica) 243
——— (Malta) 259
——— (Newfoundland) 231
——— (New Zealand) 120
——— (Norway) 276
——— (Seychelles) 69
——— (South Africa) 158
——— spurious (Ceylon) 52
——— (United Kingdom) 15
Customs (Australia) 73
——— (Bahamas) 234
——— (British Guiana) 183, 187
——— (British Honduras) 242
——— Department (Bahamas) 235
——— (India) 38
——— (Mauritius) 67
——— (Northern Rhodesia) 169
——— (South Africa) 153–156
——— (Southern Rhodesia) 167

Dairies (Zanzibar) 180
Death duties (Alberta) 199
——— (Australia) 73
——— (Manitoba) 214
——— (Ontario) 216
——— (Papua) 118
——— (Quebec) 224
——— (Victoria) 105
——— (United Kingdom) 21
Death penalty. *See* Criminal Law.
Debts, postponement of. *See* Moratorium.
Declaration of London, adoption of (United Kingdom) . . . 19
Deeds, registration of (East Africa Protectorate) 176
Deeds of arrangement (England) 5
Defence of the Realm (Australia) 70
——— ——— (Barbados) 241
——— ——— (Canada) 197
——— ——— Lighting Order (United Kingdom) . . . 26
——— ——— (Newfoundland) 231

PAGE
Defence of the Realm (New Zealand) 129
——— ——— (Nigeria) 175
——— ——— (Northern Rhodesia) 169
——— ——— (Norway) 276
——— ——— suspected persons (British Honduras) . . . 241
——— ——— (United Kingdom) . . 9, 16, 18, 22, 24, 26, 29–31
Dentists, registration of (Falkland Islands) 192
——— ——— (Hong Kong) 54
Divorce (Jamaica) 242
Dogs (Papua) 119
——— pounds (British Honduras) 241
Domestic servants (Papua) 119
——— ——— registration of (Straits Settlements) . . . 58
Drought, relief of (South Australia) 101

Easements, electric wires (East Africa Protectorate) . . . 177
Education (Alberta) 199
——— corporal punishment (Natal) 162
——— girls (Bengal) 43
——— (Jamaica) 243
——— organisation (New Zealand) 133–134
——— (Papua) 120
——— reserves (New Zealand) 130
——— (Saskatchewan) 227
——— scholarships (New Zealand) 134
——— school attendance (Manitoba) 213
——— ——— ——— (Natal) 161
——— ——— ——— (Orange Free State) 164
——— school supplies (Prince Edward Island) 224
——— secondary (St. Vincent) 250
——— technical (Quebec) 225
——— (Transvaal) 166
——— University (New Zealand) 136
Ejectment, suits in (Fiji) 137
Elections (British Guiana) 187
——— compulsory voting (Queensland) 89
——— (France) 263
——— municipal (Transvaal) 165
——— (New Zealand) 126
——— petitions (Manitoba) 213
——— political contributions (Ontario) 215
——— short ballot (United States) 283
Electoral disabilities, removal of (Queensland) 85
——— ——— ——— (United Kingdom) 15
Electricity, supply of (Ontario) 217
Elementary school teachers' superannuation (United Kingdom) . 21
Elephants. *See* Game.
Emergency legislation, character of (Germany) 271

PAGE

Emergency legislation, character of (United Kingdom) . . . 10
Emigration, restrictions on (Barbados) 239
Employment bureaus. *See* Labour Laws.
English law, application of (Trinidad and Tobago) 246
Estate duty. *See* Death Duty.
Evidence (Northern Rhodesia) 168
——— (Papua) 117
Excise (Bengal) 43
——— (Northern Rhodesia) 169
——— (Papua) 120
——— (Punjab) 44
——— (Straits Settlements) 57
Executors and administrators (South Australia) 92
——— ——— (Trinidad and Tobago) 246
Expiring laws continuance (Barbados) 239
Explosives (Canada) 196
——— kerosine oil (Bahamas) 238
Exports, prohibited. *See also* Contraband, Sugar.
——— ——— (Australia) 72
——— ——— (Denmark) 262
——— ——— (Gibraltar) 258
——— ——— (Guernsey) 34
——— ——— (Hong Kong) 54
——— ——— (New Zealand) 121
——— ——— (Northern Rhodesia) 168
——— ——— (Seychelles) 69
——— ——— (South Africa) 158
——— ——— (United Kingdom) 14, 20, 26, 27
Extradition (Ashanti) 171
——— (Federated Malay States) 64
——— (Northern Rhodesia) 167
——— (Uganda) 178

Factories (Victoria) 107
False news, spreading (South Africa) 158
——— ——— (United Kingdom) 30
Family maintenance. *See* Wills.
Fenian Raid (Canada) 197
Fertilisers, sale of (Queensland) 85
——— ——— (Southern Rhodesia) 166
Fire brigades (New Zealand) 124
Fire inquests (Ontario) 223
——— ——— (Victoria) 106
Fireworks, discharge of (Trinidad and Tobago) 247
Fisheries, barrels (Newfoundland) 230
——— (Canada) 193
——— (Natal) 161
——— (Newfoundland) 231

PAGE

Fisheries, oyster (Jamaica) 243
——— (Punjab) 45
——— seal (Newfoundland) 230
Food and drugs, sale of (Newfoundland) 230
——— ——— ——— (Straits Settlements) 64
Food supplies: grain and fodder (South Australia) 101
——— ——— maintenance of (Barbados) 239
——— ——— ——— (Northern Rhodesia) 168
——— ——— ——— (United Kingdom) 21
——— ——— meat (Queensland) 83
——— ——— prices of (Barbados) 239
——— ——— ——— (British Guiana) 190
——— ——— ——— (British Honduras) 241
——— ——— ——— (Guernsey) 34
——— ——— ——— (Gibraltar) 258
——— ——— ——— (Seychelles) 69
——— ——— ——— (South Australia) . . . 100, 102
——— ——— ——— (Victoria) 103
——— ——— rice (Egypt) 257
——— ——— wheat purchase (New South Wales) . . . 82
——— ——— withholding of (British Honduras) . . . 241
——— ——— ——— (Newfoundland). 231
——— ——— ——— (United Kingdom) 17
——— ——— ——— (Western Australia) 113
Forestry (British Columbia) 212
——— (Mauritius) 67
——— preservation of plantations (Zanzibar) 180
——— timber royalty (British Columbia) 212
Forgery (Gibraltar) 258
Friendly societies: contributions during war (New Zealand) . . 131
——— ——— ——— ——— (Queensland) . . . 85
——— ——— ——— ——— (Western Australia) . . 114
——— ——— (Trinidad and Tobago) 247
Fruit: cool stores for (Victoria) 108
——— exports (New Zealand) 137
——— preserving (New Zealand) 123

Game: elephants (Ceylon) 51
——— hunting (British Columbia) 212
——— (Orange Free State) 164
——— (Wei-hai-wei) 69
Girls, protection of. *See* Criminal Law Amendment Act.
Gold mines: safety in (New Zealand) 136
Government contracts, Board to control (South Australia) . . 100
Guernsey Militia. *See* Royal Forces.
Gum industry (New Zealand) 130

Habitual criminals (Ceylon) 51

PAGE

Habitual criminals (Queensland) 90–91
Harbours. *See* Ports.
Highways (Dominica) 252
——— (Fiji) 138
——— Good Roads Board (Manitoba) 213
——— (Jersey) 33
——— Ministry of Roads (Quebec) 225
——— names of streets (Gibraltar) 257
——— (Natal) 161
——— roads of access (East Africa Protectorate) . . . 177
——— (Transvaal) 166
Holidays, extension of (United Kingdom) 7
——— (Gold Coast) 171
——— Indians (Fiji) 138
——— (Straits Settlements) 59
Homestead, wife's right in (Saskatchewan) 227
Horsebreeding (Manitoba) 214
——— military remounts (New Zealand) 125
Hospitals, patients' payments (Manitoba) 213
Hotels, State encouragement of (Saskatchewan) 229
Housing: companies (Manitoba) 214
——— ——— (New Brunswick) 215
——— ——— (Quebec) 225
——— ——— (United Kingdom) 17
——— workers' homes (New Zealand) 129
——— ——— ——— (Western Australia) 114

Immigration, restrictions on (British Honduras) 242
——— ——— (Gold Coast) 170
——— ——— (India) 49
——— ——— (Southern Rhodesia) 166
Incest, punishment of (British Guiana) 190
Income tax (France) 264
——— (New South Wales) 78, 83
——— (South Africa) 156–157
India, decentralisation in (Madras) 41
Indian hemp (British Guiana) 186
Indian High Courts, extension of jurisdiction 35
Indian Small Cause Courts, jurisdiction of 37
Indian Volunteers. *See* Royal Forces.
Indians, laws affecting (South Africa) 144
Industrial arbitration (Australia) 74–75
Infectious diseases. *See* Public Health.
Insect pests (British Guiana) 188
——— (India) 35
——— (Southern Rhodesia) 167
Insurance. *See also* Marine Insurance.
——— hail (Manitoba) 214

PAGE

Insurance (Saskatchewan) 226
Interpretation of statutes (Nigeria) 173
——— ——— (Northern Rhodesia) 169
Intoxicating liquors, sale of. *See* Liquor Licensing.
Ireland, government of (United Kingdom) 2
Irrigation (Bombay) 41–42
——— (Burma) 46
——— (Western Australia) 114–116

Jersey Militia. *See* Royal Forces.
Jury (Bahamas) 236
——— (United States) 285
Justices of the Peace (Bahamas) 235
——— ——— (South Africa) 142
Juvenile offenders (England) 5

Kauri gum. *See* Gum Industry.
King's Counsel, appointment of (New Brunswick) 215

Labour laws. *See also* Domestic Servants; Industrial Arbitration.
——— ——— apprentices affected by war (Victoria) . . 104
——— ——— breach of contract (Zanzibar) 181
——— ——— caution money (France) 263
——— ——— employees on military service (British Honduras) . 241
——— ——— employment bureaus (Quebec) 225
——— ——— (Federated Malay States) 65
——— ——— safety of workmen (United States) . . . 284
——— ——— strikes (South Africa) 140
——— ——— suspension of (New Zealand) 121
——— ——— wages' protection (New Zealand) . . . 132
——— ——— ——— ——— (South Africa) . . 146–147
Land registration (British Columbia) 212
——— ——— (Northern Rhodesia) 168
——— ——— (Wei-hai-wei) 69
Land tax. *See also* Undeveloped Land.
——— (Australia) 72
——— valuation (Cape of Good Hope) 160
——— (Western Australia) 112
Land tenure: advances to settlers (Queensland) 93
——— ——— closer settlement (New South Wales) . . 77
——— ——— (Denmark) 261
——— ——— Department of Lands Administration (New South Wales) 79
——— ——— leases of Crown lands (New Brunswick) . . 214
——— ——— (New Zealand) 131
——— ——— partition (British Guiana) 188
——— ——— public demands recovery (Bihar and Orissa) . 44
——— ——— reclaimed lands (South Australia) . . . 96

PAGE

Land tenure: remission of rent (Bombay) 42
——— ——— sales (Ajmer) 46
——— ——— workmen's purchases (Denmark) . . . 261
Land transfer: arbitration (South Australia) 98
——— ——— devolution of real estate (Bahamas) . . . 238
——— ——— duty (Orange Free State) 165
——— ——— (Papua) 118, 119
——— ——— public purposes (British Guiana) . . . 191
——— ——— ——— ——— (South Australia) . . 97
——— ——— (Trinidad and Tobago) 245
——— ——— (Victoria) 109
——— ——— (Western Pacific) 139
Legal profession. *See* Bar Council; Corps des Ecrivains; King's Counsel; Solicitors.
Lepers (Barbados) 241
——— (Fiji) 139
Licences: trading (Cape of Good Hope) 160
——— ——— (Natal) 163
——— ——— (Orange Free State) 165
——— ——— (St. Vincent) 250
Life assurance companies (Straits Settlements) 60
Lifts, children operating (Manitoba) 214
Liquor licensing (British Honduras) 241
——— ——— native liquor (Zanzibar) 181
——— ——— (New Zealand) 125
——— ——— (Northern Rhodesia) 169
——— ——— (Quebec) 224
——— ——— (Saskatchewan) 228–229
——— ——— (Sierra Leone) 172
——— ——— (Somaliland) 179
——— ——— (South Africa) 158
——— ——— (United Kingdom) 21
——— ——— (Western Australia) 116
——— ——— (Zanzibar) 181
Loan and inscribed stock. *See* Colonial Loans.
Local government: borrowing powers (New South Wales) . . 81
——— ——— cities (Quebec) 226
——— ——— city manager (United States) 286
——— ——— commissions (United States) 285
——— ——— communities (British Columbia) . . . 212
——— ——— compulsory attendance of councillors (Victoria) . 106
——— ——— district councils (South Australia) . . . 93
——— ——— municipal debentures (Quebec) 226
——— ——— municipalities (Bombay) 42
——— ——— ——— ——— (British Columbia) . . . 206–209
——— ——— ——— ——— (Cape of Good Hope) . . . 160
——— ——— ——— ——— (Natal) 162
——— ——— (New York) 286

PAGE

Local Government: powers (South Australia) 99
——— ——— town areas (United Provinces) 44
——— ——— town council (British Guiana) 189
——— ——— villages (Alberta) 199
Local improvements (Fiji) 139
Local loans (Bengal) 43
——— ——— (India) 37
Lunacy: criminal (Bermuda) 232
——— (South Australia) 98
——— (Victoria) 110
——— villages for feeble minded (United States) . . . 282

MAGISTRATES. *See* Justices of the Peace.
Mahommedan courts (Egypt) 255
Man, Isle of, war legislation 20
Marine insurance: war risks (France) 267
——— ——— ——— (New Zealand) 124
——— ——— ——— (Norway) 276
Marriage: foreign (Gold Coast) 171
——— ——— (Sierra Leone) 172
——— native (Uganda) 178
——— poor persons (France) 264
——— registration (Nigeria) 175
Married women, bankruptcy of (England) 3
Matches. *See also* Phosphorus Poisoning.
——— duty on (South Africa) 157
Measures. *See* Weights and Measures.
Medical practitioners: registration (Bengal) 43
——— ——— ——— (Falkland Islands) 192
——— ——— ——— (Madras) 40
——— ——— ——— (New Zealand) 137
Members of Parliament, vacation of seats by (New South Wales) . . 82
——— ——— ——— ——— (United Kingdom) . . 28
Mental deficiency. *See* Lunacy.
Merchant shipping, international convention *re* (Straits Settlements) . 60
——— ——— ——— ——— (United Kingdom) . . 6
Metric system. *See* Weights and Measures.
Midwives (Falkland Islands) 192
——— (Grenada) 249
——— (Sierra Leone) 172
Military law, application of (Hong Kong) 54
Milk, purity of (British Honduras) 241
Mineral oils (Nigeria) 175
Mines, effect of war on (Tasmania) 103
——— pension fund (France) 263
Ministers of the Crown, vacation of seats by (Victoria) . . . 104
Moratorium (Antigua) 251
——— (Denmark) 262

PAGE

Moratorium (Dominica) 252
——— (Egypt) 256
——— (France) 266
——— (Germany) 272
——— (New South Wales) 79
——— (Norway) 275
——— (St. Christopher and Nevis) 253
——— (South Africa) 159
——— (South Australia) 102
——— (Sweden) 291
——— (United Kingdom) 7, 15, 25
——— (Western Australia) 117
Mortgages: loans (France) 262
——— registration of (France) 264
——— relief during war (New Zealand) 122
Motors (Cape of Good Hope) 160
——— garage-keepers' lien (Manitoba) 213
——— (Grenada) 249
——— (India) 37
——— lights (Quebec) 225
——— (Orange Free State) 164
——— (St. Christopher and Nevis) 253
——— (St. Vincent) 250
——— (Straits Settlements) 62
——— tax (New South Wales) 83
——— (Victoria) 111
Municipalities. *See* Local Government.
Museums (Cape of Good Hope) 160

National finance. *See also* War Loan.
——— ——— (France) 266
——— ——— loan (Barbados) 239
——— ——— (New Zealand) 123
——— ——— (United Kingdom) 28
——— ——— war (Canada) 197
——— ——— war obligations (United Kingdom) . . . 28
National insurance, effect of war on (United Kingdom) . . 24, 32
Nationality (Germany) 270
National relief. *See also* Royal Forces; War Relief.
——— ——— fund (New South Wales) 80
National Service. *See* Royal Forces.
Native customs (Nigeria) 175
Native labour (Fiji) 137
——— ——— registration of contracts (Southern Rhodesia) . 166
Naturalisation (Canada) 196, 198
Natural resources (Norway) 274
Navy. *See also* Billeting; Royal Forces.
——— discipline (Sweden) 288

PAGE
Navy (France) 265
Necessary commodities. *See* Necessities of Life.
Necessities of life, control of (France) 266
——— ——— ——— (Malta) 259
——— ——— ——— (Norway) 275
——— ——— ——— (Sweden) 290
——— ——— prices (Denmark) 262
——— ——— ——— (Egypt) 256
——— ——— ——— (Germany) 271
——— ——— ——— (Hong Kong) 53
——— ——— ——— (New South Wales) 79
——— ——— ——— (South Africa) 158
——— ——— ——— (Uganda) 179
——— ——— ——— (Western Australia) 112
Neutrality (Denmark) 262
Nigeria, amalgamation of North and South 173
——— courts 173–175
Notaries (St. Vincent) 250
——— (Uganda) 178
——— (Zanzibar) 182
Noxious weeds (Coorg) 46

Oaths (Gibraltar) 258
——— (Jamaica) 242
Obscene publications, seizure of (Hong Kong) 54
Offensive weapons. *See* Arms.
Official designations (British Guiana) 190
Official secrets (Malta) 258
——— ——— (Northern Rhodesia) 168
——— ——— (Southern Rhodesia) 167
Opiates, sale of (Uganda) 178
Opium (Barbados) 238
——— (Bermuda) 232
——— (British Guiana) 186
——— (Dominica) 251
——— (Fiji) 137
——— government control (Hong Kong) 54
——— (United States) 279
——— (Straits Settlements) 57

Papuan Armed Constabulary. *See* Royal Forces.
Parliament. *See also* Party Controversy.
——— committees (New South Wales) 76
——— disqualification of members (New Zealand) . . . 136
——— inquiries (France) 263
——— Legislative Council (Falkland Islands) 192
——— ——— ——— (New Zealand) 135
——— officers of (Tasmania) 103

PAGE

Partition, sale instead of (Bermuda) 231
——— ——— ——— (Trinidad and Tobago) . . . 245
Party controversy, suspension of (United Kingdom) . . . 25
Patents (Australia) 70
——— (East Africa Protectorate) 176
——— (Federated Malay States) 65
——— (Germany) 268
——— (New Zealand) 131
——— (Norway) 276
——— (United Kingdom) 15
Patriotic Fund (Canada) 199
Pauper litigants (Cyprus) 260
Perjury (Gambia) 170
Pharmacy (Manitoba) 214
——— (United States) 279
Phosphorus poisoning (Canada) 194
Pilotage (Bermuda) 232
——— (Jamaica) 242
——— (Mauritius) 67
——— (Seychelles) 68
Piracy (Hong Kong) 55
Plantations. *See* Forestry.
Plants: diseases (Bahamas) 238
——— ——— (Bermuda) 231
——— ——— (British Guiana) 188
——— ——— (Egypt) 255
——— ——— (Papua) 118
——— ——— (Western Australia) 116
——— protection of (Natal) 161
Pleasure resorts (Bahamas) 237
——— ——— (South Australia) 99
Poisons. *See also* Phosphorus Poisoning.
——— (Falkland Islands) 192
——— (Manitoba) 214
Police (Bermuda) 231
——— (Bihar and Orissa) 43
——— military service (Jamaica) 244
——— (Scotland) 21
——— (Straits Settlements) 62
——— (Zanzibar) 181
Poor relief (Queensland) 90
——— (St. Helena) 193
Ports: Chittagong (Bengal) 43
——— dues (Burma) 46
——— (South Australia) 94–95
——— Sydney (New South Wales) 79
Post Office (Bahamas) 237
——— (Malta) 258

PAGE
Post Office: parcels post (British Honduras) 242
Postponement of payments. *See* Moratorium.
Pounds (Orange Free State) 164
Powers of attorney (Trinidad and Tobago) 244
Prices, control of. *See also* Food Supplies; Necessities of Life.
———— (New Zealand) 121
Prince of Wales's Fund. *See* War Relief Contributions.
Prisons (East Africa Protectorate) 177
———— (Sierra Leone) 172
———— (United States) 281
Prize Courts (United Kingdom) 13, 24
Probate (East Africa Protectorate) 177
———— (Northern Rhodesia) 168
———— (Papua) 118
Provident Fund (New Zealand) 127–129
Publication of proclamations (British Honduras) 242
Public demands. *See* Land Tenure.
Public health (Bahamas) 237
———— ———— (Denmark) 261
———— ———— drainage (Egypt) 255
———— ———— infectious diseases (Zanzibar) 182
———— ———— sanitary officers (Bengal) 42
———— ———— (Zanzibar) 181
Public inquiries. *See* Royal Commissions.
Public meetings (Egypt) 254
———— ———— (South Africa) 150–153
Punjab Courts 45

Quarantine (British Guiana) 191
———— (Papua) 117
———— (Sierra Leone) 172

Radium, discovery of (British Columbia) 212
———— ———— (New Brunswick) 215
———— ———— (Ontario) 216
Railless traction (Queensland) 89
Railways, construction of (Canada) 194
———— ———— (New Zealand) 125
———— control of (United Kingdom) 8
———— electric (Ontario) 223
———— (Papua) 120
———— (South Africa) 158
Rates, levy of (United Provinces) 44
———— payment of (United Kingdom) 25
Reformatories (Trinidad and Tobago) 248
Registrar-General (Bahamas) 236
Registration of births, marriages and deaths (British Columbia) . 212
———— ———— ———— ———— (Jersey) 33

PAGE

Registration of births, marriages and deaths (Northern Rhodesia) . 167
——— ——— ——— ——— (Western Australia) . . 112
Restraint of trade, contracts in (Germany) 271
Revenue Defence Fund (British Guiana) 188
Riots, liability for damage (France) 263
Royal Commissions, powers of (New Brunswick) 214
——— ——— ——— (Prince Edward Island) . . . 224
——— ——— ——— (Uganda) 178
——— ——— ——— (Western Australia) 113
——— ——— ——— (Western Pacific) 139
Royal forces. *See also* Army; Billeting; Royal Marines; Royal Naval Division.
——— calling out (Hong Kong). 53
——— ——— (United Kingdom) 7
——— Ceylon Town Guards 52
——— (Fiji) 139
——— Guernsey Militia 34
——— Indian Volunteers 49
——— Jamaica Volunteer Force 243
——— Jersey Militia 33
——— King's African Rifles (East Africa Protectorate) . . 177
——— national service (Sweden) 287
——— (Newfoundland) 231
——— (Northern Rhodesia) 169
——— Papuan Armed Constabulary 119
——— pensions and allowances (Australia) 70–72
——— ——— ——— (United Kingdom) . . . 16, 26
——— Uganda Volunteer Reserves 179
Royal Marines, service of (United Kingdom) 32
Royal Naval Division, pay of (United Kingdom) 32
Rubber (Northern Rhodesia). 169

Sale of goods (British Guiana) 185
Salvage (Canada) 194
Salvation Army (Jamaica) 243
Saskatchewan Court of Appeal 226
Savings banks (Barbados) 240
——— ——— (New South Wales) 77
——— ——— (Trinidad and Tobago) 247
Sea defences (British Guiana) 184
Seditious publications, forfeiture of (Hong Kong) 54
Seeds, sale of (Queensland) 86
Shipping: fees (Bermuda) 232
——— registration of (Trinidad and Tobago) 248
——— requisitioning of, for war purposes (France) . . . 265
——— ——— ——— ——— (India) 47
——— steerage passengers (Jamaica) 243
——— (United States) 279

PAGE

Shop hours (British Guiana) 185
——— (Transvaal) 166
Solicitors (Fiji) 138
——— (Trinidad and Tobago) 248
Special constables (United Kingdom) 18, 19
Spirits. *See* Liquor Licensing.
Stamp duties (Malta) 259
——— (New South Wales) 76–77
——— (Victoria) 104
Statistics, agricultural (Southern Rhodesia) 167
——— (South Africa) 142
Statute law revision: amendments incorporation (South Australia) . 93
——— ——— (Ceylon) 51
——— ——— consolidation (Queensland) 89
——— ——— (India) 38
——— ——— (Leeward Islands) 250
——— ——— (Papua) 119
Sugar, import of (United Kingdom) 24
——— ——— (Gibraltar) 258
Summary jurisdiction (Seychelles) 68
Supreme Court. *See also* Names of Dominions and Colonies.
——— ——— rules (Victoria) 106
——— ——— (Seychelles) 69

TAXATION: arrears (Saskatchewan) 227
——— (British Guiana) 183, 187
——— companies (Ontario) 216
——— (France) 263
——— increment (Germany) 270
——— local (Southern Rhodesia) 176
——— national defence (Germany) 269
——— (Northern Rhodesia) 168
——— poll (Uganda) 178
——— profits (New South Wales) 78
——— timber (Alberta) 199
Telegraphs (India) 37
——— (Northern Rhodesia) 168
Telephones (St. Christopher and Nevis) 253
Tobacco, duty on (Southern Rhodesia) 166
——— monopoly (Sweden) 291
Tourist resort. *See* Pleasure Resort.
Traction engines (Straits Settlements) 62
Trading with the enemy (Australia) 70
——— ——— ——— (Bermuda) 233
——— ——— ——— (British Guiana) 190
——— ——— ——— (Ceylon) 51
——— ——— ——— (Egypt) 257
——— ——— ——— (Fiji) 138

PAGE

Trading with the enemy (France) 267
——— ——— ——— (Gambia) 170
——— ——— ——— (Germany) 273
——— ——— ——— (Gibraltar) 258
——— ——— ——— (Gold Coast) 171
——— ——— ——— (Grenada) 249
——— ——— ——— (Hong Kong) 55
——— ——— ——— (India) 49
——— ——— ——— (Leeward Islands) 251
——— ——— ——— (Malta) 259
——— ——— ——— (Mauritius) 67
——— ——— ——— (New Zealand) 129
——— ——— ——— (Nigeria) 175
——— ——— ——— (Northern Rhodesia) 168
——— ——— ——— (St. Lucia) 249
——— ——— ——— (St. Vincent) 250
——— ——— ——— (Seychelles) 69
——— ——— ——— (Sierra Leone) 173
——— ——— ——— (Straits Settlements) 57
——— ——— ——— (Trinidad and Tobago) . . . 247
——— ——— ——— (Uganda) 179
——— ——— ——— (United Kingdom) . . 14, 23, 25, 31
Trade marks, registration of (British Guiana) 190
——— ——— ——— (Germany) 268
——— ——— ——— (Gold Coast) 171
Travelling shows, licences for (Alberta) 200
Treasury (Bahamas) 234
Trespass (East Africa Protectorate) 176
Trust companies. *See* Companies.
Trusts and monopolies: commissions to investigate (Newfoundland) . 230
——— ——— iron (Australia) 72
——— ——— meat (Australia) 72
——— ——— unfair competition (United States) . . 277–279
Trusts and trustees (New Zealand) 123
——— ——— (Straits Settlements) 63
——— ——— (United Kingdom) 31

Undeveloped land: rate on (Federated Malay States) . . . 66
——— ——— tax (Alberta) 199
Unemployment, provision for (Barbados) 239
——— ——— ——— (Denmark) 261
——— ——— ——— (United Kingdom) . . . 17, 28

Vehicles, licences for (Trinidad and Tobago) 248
——— lights on (Antigua) 251
——— ——— (Montserrat) 252
Vermin, destruction of (Orange Free State) 164
——— ——— (South Australia) 100

PAGE

WAGES protection. *See* Labour Laws.
War: contribution to cost (Bermuda) 233
——— declaration of (United Kingdom) 6, 27
——— indemnity for acts due to (Gold Coast) . . . 171
——— ——— ——— ——— (Newfoundland) . . . 231
——— taxation for (Germany) 270
——— legislation, application of (Ceylon) 51
——— ——— ——— (Isle of Man) 20
War loan (United Kingdom) 19
——— banks (Germany) 271
War obligations. *See* National Finance.
War pensions (Germany) 269
War relief contributions (Ceylon) 52
——— ——— (New Zealand) 123
——— ——— (Queensland) 85
——— patriotic fund (Alberta) 200
——— ——— ——— (Canada) 199
Water, rights of (British Columbia) 200–206
——— supply (Bihar and Orissa) 44
——— ——— (St. Vincent) 250
Weights and measures: land (British Guiana) 191
——— ——— metric system (Canada) 193
——— ——— ——— ——— (Egypt) 255
——— ——— ——— ——— (Malta) 258
——— ——— (Papua) 119
Welsh Church, disestablishment of (United Kingdom) . . . 1
Wheat. *See* Food Supplies.
White Slave traffic. *See also* Criminal Law Amendment Act.
——— ——— (Germany) 269
Wild birds: eggs of (East Africa Protectorate) 177
——— ——— penguins (Falkland Islands) 192
——— ——— preservation of (Barbados) 239
——— ——— ——— (Dominica) 251
——— ——— ——— (Federated Malay States) . . . 66
——— ——— ——— (Gambia) 170
——— ——— ——— (Gibraltar) 258
——— ——— ——— (Jamaica) 243
——— ——— ——— (Mauritius) 67
——— ——— ——— (Northern Rhodesia) 169
——— ——— ——— (St. Helena) 192
——— ——— ——— (Seychelles) 68
——— ——— ——— (Sierra Leone) 172
——— ——— ——— (Southern Rhodesia) 167
——— ——— ——— (Virgin Islands) 253
——— ——— ——— (Wei-hai-wei) 69
——— ——— ——— (Western Pacific) 140
Wills: family maintenance (Queensland) 91
——— Hindu law (Madras) 39

PAGE

Wills: naval and marine (United Kingdom) 32
Wireless telegraphy, control of (Ceylon) 51
——— ——— ——— (Newfoundland) 231
——— ——— ——— (St. Christopher and Nevis) . . 253
——— ——— ——— (Seychelles) 68
——— ——— ——— (United Kingdom) 6
Witchcraft (Northern Rhodesia) 168
Women, protection of. *See* Criminal Law Amendment Act.
Women's franchise: local government (Natal) 162
——— ——— ——— ——— (Transvaal) . . . 165
Workers' homes. *See* Housing.
Workmen's compensation (Bermuda) 233
——— ——— forestry (France) 264
——— ——— (New Brunswick) 215
——— ——— (Ontario) 218–222
——— ——— (South Africa) 147–150

ZANZIBAR Courts 182

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